

ARTICLE III - PROCEDURES

SECTION 301. AMENDMENTS OR ZONE CHANGES.

A. PURPOSE.

The Council may, from time to time as the public necessity, convenience, general welfare and good zoning practice requires, change the district boundaries or amend, change, repeal or supplement the regulations herein established. Such changes or amendments may be initiated by the Council or the Commission on its own motion or by petition of one or more owners of real property within the area proposed to be changed.

B. CITIZEN REVIEW AND PARTICIPATION.

1. For all zone change applications, the following citizen review and participation process is required:
 - a. At least 60 days prior to any public hearing, the applicant or an appointed representative shall arrange a meeting with planning staff which identifies development issues as well as arrangements and scheduling for the neighborhood meeting described in subsection b below.
 - b. At least 30 days prior to any public hearing, the applicant or an appointed representative shall conduct a neighborhood meeting designed to inform adjoining residents and property owners about the proposed zone change.
 - c. At least 15 days prior to the scheduled neighborhood meeting, the City shall notify all property owners within 300 feet of the subject site by first class mail. The notification shall include the date, time and place for the neighborhood meeting, as well as a description of the proposed land uses.
2. It is the responsibility of the applicant or their representative initiating the zone change to conduct the meeting and provide an opportunity for a question and answer period by the audience. It is also the responsibility of the same to identify a point of contact to the public for follow up questions and comments. A written summary of the meeting, including a list of attendees and the issues and concerns discussed, must be prepared by the applicant and a copy submitted to the Planning Department within 15 days after the neighborhood meeting.

C. PUBLIC HEARINGS REQUIRED.

1. The Planning and Zoning Commission shall hold a public hearing on any zoning ordinance. Notice of the time and place of the hearing, including a general explanation of the matter to be considered and general description of the area affected, shall be given at least fifteen (15) days before the hearing in the following manner:
 - a. The notice shall be published at least once in a newspaper of general circulation.

- b. In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of such governmental unit abutting such land.
- c. In proceedings that are not initiated by the property owner, involving rezoning of land which may change the zoning classification, notice by first class mail shall be sent to each property owner, as shown on the last assessment of the property, of the area to be rezoned and to all property owners, as shown on the last assessment of the property, within three hundred (300) feet of the property to be rezoned.
- d. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by subsection e.
 - (1) A ten percent (10%) or more increase or decrease in the number of square feet or units that may be developed.
 - (2) A ten percent (10%) or more increase or reduction in the allowable height of buildings.
 - (3) An increase or reduction in the allowable number of stories of buildings.
 - (4) A ten percent (10%) or more increase or decrease in setback or open space requirements.
 - (5) An increase or reduction in permitted uses.
- e. In proceedings governed by subsection d of this section, the City shall provide notice to real property owners pursuant to at least one of the following notification procedures:
 - (1) Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property is directly governed by the changes.
 - (2) If the City issues utility bills or other mass mailings that periodically include notices or other informational or advertising materials, the City shall include notice of such changes with such utility bills or other mailings.
 - (3) The City shall publish such changes prior to the first hearing on such changes in a newspaper of general circulation. The changes shall be published in a “display ad” covering not less than one-eighth (1/8) of a full page.
- f. If notice is provided pursuant to subsection e (2) or (3) above, the City shall also send notice by first class mail to persons who register their names and addresses with the City as being interested in receiving such notice.

- g. In addition to the notification methods described above, the City may give notice of the hearing in such other manner as it may deem necessary or desirable.

D. PETITIONS FOR AMENDMENTS.

1. Petitions for change of district boundaries or amendment of regulations shall be filed with the Zoning Administrator by an owner of real property within the area proposed to be changed. In the case of a petition requesting a zoning district change which includes other property in addition to that owned by the petitioner, the petition shall include the signatures of the real property owners representing at least seventy-five (75) percent of the land in the area proposed to be changed. Such petition shall be filed on a form provided for the purpose and shall include:
 - a. A map showing the particular property or properties for which the change of zone is requested and substantially the adjoining properties and the public streets and ways within a radius of three hundred (300) feet of the exterior boundaries thereof.
 - b. A Tentative Development Plan which shall show the following:
 - (1) Topographical description showing existing and proposed grades and drainage systems and natural and man-made features with indication as to which one to be retained and which one to be removed or altered.
 - (2) Proposed street system.
 - (3) Proposed block layouts.
 - (4) Proposed reservation for parks, parkways, playgrounds, recreation areas and other open spaces.
 - (5) Off-street parking space.
 - (6) Types and uses of structures.
 - (7) Locations of structures, garages and/or parking spaces.
 - (8) A tabulation of the total number of acres in the proposed project and a percentage thereof designated for the proposed structures.
 - (9) Preliminary plans and elevations of the structure types.
 - c. Reasons justifying the petition.
 - d. A true statement revealing any conditions or restrictions of record (if any) which would affect the permitted “uses” of the property if rezoned as requested and the date or dates (if any) of expiration thereof and
 - e. Such photographs, drawings and other supporting documents (if any) as the applicant may desire to present.

- f. Payment of a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the offices of the City Clerk. No part of the filing fee shall be returnable. Payment of filing fee shall be waived when the change or amendment is initiated by the Council or the Commission or when the petitioner is the City, County, State or Federal Government.
2. Upon receipt of a complete application for amendment, the Zoning Administrator shall forward the application to the Planning and Zoning Commission.
3. Any plan approved by the Zoning Administrator under the provisions of Section 303 must substantially conform to the Tentative Development Plan submitted as part of the petition for a change of district boundaries.

E. COMMISSION ACTION.

1. Upon receipt of any complete application for amendment, the Commission shall fix a reasonable time for the hearing of the proposed zone change, amendment or addition and shall give notice thereof to interested parties and to the public in the time and manner provided for as specified in Subsection C. and by posting the area included in the proposed change, not less than fifteen (15) days prior to the hearing. It shall be the responsibility of the applicant to maintain the posting. The notice shall set forth the time and place of the hearing including a general explanation of the matter to be considered and including a general description of the area affected. The Commission may for any reason, when it deems such action necessary or desirable, continue such hearing to a time and place certain. Within thirty (30) days after the close of the hearing, the Commission shall render its decision in the form of a written recommendation to the Council. The recommendation shall include the reasons for the recommendation.
2. Prior to publishing a petitioned Zoning Map change, the Commission may, on its own motion, delimit or extend the boundaries of such area, so as to constitute a more reasonable zone district boundary.
3. The Commission may, on its own motion, propose any amendments to this Ordinance and map. After holding a public hearing as required by this Section, the Commission shall either:
 - a. Transmit such proposal to the Council which shall thereupon proceed as set forth herein for any other amendment or;
 - b. Vote to quash the Commission initiated proposal, in which case no further action need be taken by the Commission or Council.
4. The Commission may recommend to the Council that a time limit be established for the development of the proposal for which a rezoning is conditionally approved.

F. COUNCIL ACTION.

1. Once the Commission has held a public hearing, the Council may adopt the recommendations of the Commission without holding a public hearing if there is no objection, request for public hearing or other protest. The Council shall hold a public

hearing if requested by the party aggrieved or any member of the public or of the governing body. Notice of the time and place of the hearing shall be given in the time and manner provided for the Commission as specified in Subsection C. In addition, the City may give notice of the hearing in such other manner as it may deem necessary or desirable.

2. If the owners of twenty (20) percent or more of the property by area and number of lots, tracts and condominium units within the zoning area of the affected property file a protest in writing against a proposed amendment, the change shall not become effective except by the favorable vote of three fourths (3/4) of all members of the Council. If any members of the Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three fourths (3/4) of the remaining membership of the council, providing that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body. For the purposes of the Subsection, the vote shall be rounded to the nearest whole number.
 - a. For the purposes of the Section, “zoning area” means both of the following:
 - 1) The area within one hundred and fifty feet, including all rights-of-way, of the affected property subject to the proposed amendment or change.
 - 2) The area of the proposed amendment or change.
3. The Council may approve the proposal or changes as recommended by the Commission, reject them, approve them with additional modifications and/or conditions, or refer the matter back to the Commission for further consideration and action.
4. At the time of rezoning, the Council may establish a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use for which it was conditionally approved, a public hearing shall be scheduled with the Planning and Zoning Commission to determine compliance with the schedule for development and to provide a recommendation to the City Council whether to extend the schedule for development or cause the zoning to revert to its former classification. A public hearing shall then be scheduled with the City Council to either take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification. The property owner and applicant who requested the rezoning shall be sent notification by certified mail regarding all scheduled public hearings on these matters.
5. The Council may require the dedication of streets and utility easements as a condition of rezoning.

G. RECONSIDERATION OF DENIED AMENDMENTS.

In the event that a petition for an amendment is denied by the Council, or is withdrawn after the Commission hearing, the Commission shall not consider the petition or any other petition for the same amendment of this Ordinance as it applies to the same property described in the

original petition, or any part thereof, within a period on one (1) year from the date of such denial action, unless the conditions upon which the original denial was based have changed.

H. EXCEPTIONS.

In the event that a request for amendment concerns only the amendment of general requirements of this Ordinance, no signature of affected property owners or posting of property shall be required; provided, however, that all other provisions of this Section shall be complied with.

SECTION 302. CONDITIONAL USE PERMITS.

A. PURPOSE.

Every zoning district contains certain buildings, structures and uses of land which are normal and complementary to permitted principal uses in the district, but which, by reason of their typical physical or operational characteristics, influence on the traffic function of adjoining streets or similar conditions are often incompatible with adjacent activities and uses. It is the intent of this Ordinance to permit Conditional Uses in appropriate zoning districts, but only in specific locations within such districts that can be designed and developed in a manner which assures maximum compatibility with adjoining uses, and where such uses will not be detrimental to the health, safety or welfare of the public. It is the purpose of this Section to establish principles and procedures essential to proper guidance and control of such uses.

B. GENERAL REGULATIONS.

1. Zoning district regulations established elsewhere in this Ordinance specify that certain buildings, structures and uses of land may be allowed by the Commission as Permitted Conditional Uses in a given district subject to the provisions of regulations. The Planning and Zoning Commission is empowered to grant and to deny applications for Use Permits and to impose reasonable conditions upon them.
2. Any building, structure or use existing on the effective date of this Ordinance which is reclassified as a Permitted Conditional Use by this Ordinance for the district in which it is located shall be considered as meeting the conditions which would otherwise be imposed upon such use by this Ordinance and its continuance shall not be subject to issuance of a Conditional Use Permit; provided, however, to the extent that such fails to conform to the requirements of this Ordinance, it shall be considered nonconforming as described in this Ordinance and its continuance shall be governed by all nonconforming use regulations applicable thereto.

C. CONDITIONAL USE PERMIT APPLICATION.

Application for a Conditional Use Permit (CUP) shall be filed with the Zoning Administrator on a form provided by the City. The application shall be forwarded to the Planning and Zoning Commission by the Zoning Administrator and when required by the Commission, shall be accompanied by a detailed site plan and related exhibits showing all information necessary to demonstrate that the proposed use will comply with the required findings and

all special conditions as well as other regulations and requirements of this Ordinance. The applicant shall furnish the Commission any additional information it may consider relevant to investigation of the case.

D. COMMISSION ACTION AND FINDINGS.

1. It is the express intent of this Ordinance that any use for which a Conditional Use Permit is required shall be permitted as a Principal Use in the particular zoning district, provided that the required findings and all special conditions and requirements of this Ordinance are met.
2. Notification: Notice of the Conditional Use Permit application shall be posted on the property. The notice shall set forth the time and place of the public hearing and include a general explanation of the matter to be considered and a general description of the area affected.
3. A Conditional Use Permit granted pursuant to the provisions of this section shall thereafter run with the land and shall continue to be valid with successor ownership of the property provided the use is maintained in compliance with the conditions, stipulations and terms of the permit. If a use ceases to exist for six (6) months or more, the property owner shall be notified that the CUP shall be subject to possible revocation as described in this Section. The Planning and Zoning Commission can grant an extension to the CUP where the intent to continue the use in the same manner is demonstrated.
4. A Conditional Use Permit may be subject to review and possible revocation where a violation of the conditions of approval is indicated and where the required findings for revocation, as described in this Section, are demonstrated.
5. Conditions of Approval: The Commission may designate such conditions in connection with the Conditional Use Permit as it deems necessary to secure the intent and purposes of this Ordinance and may require such guarantees and evidence that such conditions are being or will be complied with.
6. Required Findings. A Conditional Use Permit shall only be granted if the approving body determines that the project conforms to the required findings in this Section. If it is determined that it is not possible to confirm the required findings for the proposed CUP, whether as submitted or through conditions that may be required, the application shall be denied. The specific basis for any decision shall be established in the record as findings of fact. The following criteria shall be considered as the basis for the findings to approve, approve with conditions or deny the Conditional Use Permit:

- a. General Findings: The location, size, design and operational characteristics of the proposed use shall not be detrimental to the health, safety or welfare of the surrounding properties or occupants, nor be substantially or permanently injurious to neighboring property;
 - b. Compatibility with Surrounding Uses: The proposed use shall be compatible with surrounding uses in the vicinity with respect to the intensity of activity, times of use, scale of buildings, anticipated traffic, parking requirements, architectural and site improvements, landscaping, outdoor lighting and other property development standards;
 - c. Traffic and Circulation: The proposed use shall have adequate access to public streets and highways to carry the type and quantity of traffic which may be generated by the subject use; and on-site circulation, including driveways, drive aisles, parking and loading facilities, and pedestrian and bicycle facilities, shall be provided in a manner which is adequate, safe, efficient and convenient;
 - d. Infrastructure: Adequate public infrastructure shall be available to serve the proposed use, including, but not limited to, roads, parking, drainage, water and sewer systems, and public services, such as police and fire protection;
 - e. Nuisance Activities: The proposed use shall not have or create negative impacts on surrounding properties or uses in the area through the creation of excessive noise, glare, fumes, dust, smoke, vibration, fire hazard, or other injurious or noxious impacts. The applicant shall be able to provide adequate mitigation measures to any such nuisance uses and conditions identified; and
 - f. Buffering and Screening: In addition to any landscape buffering, walls, screening or setback areas that may be required by this Ordinance, additional buffering and screening may be required as a condition of approval for a CUP where determined as necessary to mitigate conditions.
7. Approval: If the Commission approves the application, it shall direct the Zoning Administrator to issue a Conditional Use Permit setting forth all conditions and requirements governing such use, shall make the approved site plan and exhibits a part of the record of the case and shall report its actions to the City Council at the next regular meeting.
8. Denial: If the Commission finds that the application and supporting data does not indicate that the required findings will be met, it shall deny the permit. Notice of denial, including reasons therefore, shall be mailed to the applicant at the address shown on the application and the Commission shall report its actions to the City Council at the next regular meeting.

E. APPEALS.

- 1. Any applicant or resident of the City of Cottonwood who is dissatisfied or aggrieved by the decision of the Planning and Zoning Commission may appeal such decision to the

City Council by filing a written Notice of Appeal with the City Clerk, not later than fifteen (15) days from the date of the decision.

2. Notice of the appeal shall be made in the same manner as for the Conditional Use Permit, including timeframes indicated, posting on-site and publication of a legal notice.
3. Upon notice of a valid filing of an appeal, the Community Development Director shall thereafter prepare and submit a report to the City Council regarding the case that describes the reasons for the actions taken in the issuance or denial of the Conditional Use Permit. The City Council shall hold a public hearing and either uphold the action of the Planning and Zoning Commission, reverse that action, or make a decision of its own findings. The City Council may designate such conditions in connection with the permit as it deems necessary to secure the intent and purpose of this Ordinance and may require such guarantees and evidences that such conditions are being, or will be complied with.
4. The Council's decision shall be final and shall become effective immediately. Notice of the decision shall be mailed to the applicant at the address shown on the application.

F. TIME LIMITS.

1. Conditional Use Permits shall become effective fifteen (15) days after approval by the Planning and Zoning Commission, but in the event an appeal is filed, said permit shall not become effective until a decision is arrived at by the City Council.
2. Any Conditional Use Permit issued by the Planning and Zoning Commission shall be commenced within six (6) months from the date of approval and diligently pursued, otherwise it shall be subject to revocation as per this Section. -
3. No person shall re-apply for the same or substantially the same Conditional Use Permit on the same or substantially the same plot, lot or parcel of land within a period of six (6) months from the date of denial or revocation of said Use Permit.

G. REVOCATION.

1. A Conditional Use Permit granted pursuant to this Section may be revoked by the Planning and Zoning Commission, after holding a public hearing to determine whether any condition, stipulation, or term of the approval of the Conditional Use Permit has been violated.
2. The Zoning Administrator shall notify the permittee of a potential violation of a Conditional Use Permit by certified mail. If no attempt to bring the violation into conformance is made within fifteen (15) days after notification, and no attempt has been made to contact the City department providing the notification, a review of the Conditional Use Permit shall be scheduled with the Planning and Zoning Commission at their next available meeting at which time the CUP shall be subject to possible revocation.

3. The property owner and permittee, if separate, shall be sent notification of the hearing regarding possible revocation by certified mail at least thirty (30) days in advance of the hearing date.
4. Any Conditional Use Permit issued by the Planning and Zoning Commission shall be subject to revocation procedures if the conditions of approval have not been implemented within the required time frame or properly maintained thereafter. The Planning and Zoning Commission may revoke the CUP if it makes any of the following findings:
 - a. That the use is in substantial violation of the conditions of approval for the Conditional Use Permit, or there is or has been a violation of or failure to observe the terms or conditions of approval for the CUP, or the use has been conducted in violation of the provisions of this Ordinance;
 - b. That approval was obtained by means of fraud or misrepresentation of a material fact;
 - c. That the holder of the permit has failed to initiate construction or undertake the use in question within the six (6) month period following the effective date of the permit. An extension of time for up to six (6) months or longer may be approved by the Commission where the permit holder has submitted a written request that adequately demonstrates their intent to proceed with establishing the use in a timely manner;
 - d. That an established use has ceased to exist or has been suspended for six (6) months or more; or
 - e. That the use to which the permit applies has been conducted in a manner considered detrimental to the health, safety or general welfare of the public, or so as to be considered an ongoing or habitual nuisance.
5. Appeal of Revocation: A permittee whose Conditional Use Permit has been revoked through these procedures may appeal such decision to the City Council according to the procedures for appeal described in this Section.

H. FEES.

The application for a Conditional Use Permit or appeal of such shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the City Clerk. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is the City, County, State or Federal Government.

SECTION 303. ZONING CLEARANCE.

A. PURPOSE.

The purpose of zoning clearance is to allow the Zoning Administrator or his or her designee to make a finding that the proposed development, activity or use is in conformity with the intent and provisions of the Zoning Ordinance and all other applicable City codes and ordinances.

B. APPLICABILITY.

Zoning clearance is staff-level review of planning and zoning regulations that is required for proposed development activity. This review applies to new development, as well as to changing or expanding the use of existing properties. Development activity and changes to the use of a property that may otherwise be exempt from the requirements for Building Permits may still be subject to compliance with Zoning Ordinance requirements.

No building or structure shall be erected, added to, usage/occupancy changed or structurally altered until a Zoning Clearance has been issued by Community Development Department. All applications for zoning clearances shall be made in the Community Development office on forms provided, together with a plot plan of the proposed construction containing sufficient information for the enforcement of this Ordinance. All such clearances shall be obtained prior to the start of construction.

C. APPLICATION FOR ZONING CLEARANCE.

A request for zoning clearance shall be filed with the Community Development Department on a form provided by the City. Sufficient information shall be provided for staff to review the proposed development and/or use to ensure compliance with ordinance requirements.

1. Assessor's Parcel Number/s identifying the property.
2. Street address, if any, or description of location.
3. Property owner and applicant names and contact information. Signatures of property owner/s or authorized representatives, as applicable.
4. Complete plans and exhibits as necessary for staff to review the proposal. All such plans and exhibits shall be drawn to scale.

5. Such other information as may be required for the purpose of determining whether the application complies with the Ordinance requirements.

D. REVIEW PROCEDURES.

1. The Zoning Administrator shall review said plan and approve, conditionally approve or reject the application based on its compliance with all provisions of applicable City codes, ordinances and regulations. The decision shall set forth in detail the reasons for denial or in the event of conditional approval, the changes or additions which are necessary to make the plan acceptable.
2. All copies of the approved plan, with any conditions shown thereon or attached thereto, shall be dated and signed by the Zoning Administrator or his/her designee, and said copies and forms shall be included in applicable Department files.

E. ACTIVITIES REQUIRING ZONING CLEARANCE.

The following list provides a general overview of typical activities that require Zoning Clearance.

1. New Building and Development.
2. Change of Use for Existing Properties.
3. Tenant Improvements.
4. Expansion or Changes to Nonconforming Structure or Use.
5. Additions and Expansion of Use.
6. Renovations and Remodeling.
7. Demolitions.
8. Temporary Buildings and Temporary Uses.
9. Manufactured Homes and Prefabricated Structures.
10. Accessory Structures and Uses.
11. Fences and Walls.
12. Decks, Patios, and Porches.
13. Signs.
14. Grading and Stockpiling.
15. Parking Lots.
16. Outdoor Storage and Outdoor Display.
17. Swimming Pools.

F. EXEMPTIONS FROM CLEARANCES.

The exemption of an object or improvement from the requirement for a Zoning Clearance does not remove such object or improvement from the requirement to comply with all other regulations of this Ordinance and other codes. Some types of permits or minor activities do not require Zoning Clearance, including the following:

1. Gas Line Permits.
2. Fire Sprinkler Plans.
3. Fire Alarm Permits.
4. Satellite dishes or up-right mast antennae (not including slabs, foundations, enclosures or permanent structural supports).
5. Landscaping for single-family residential.

G. AUTHORITY

No Zoning Clearance presuming to give authority to violate any of the provisions of this ordinance or any existing law, shall be issued, and if issued shall not be valid except in so far as the work or use which it authorizes is lawful and permitted. In all other instances the clearance is valid provided:

1. Every Zoning Clearance issued by the City under the provisions of this ordinance shall expire by limitation and become null and void if the building, work or use authorized by such clearance is not commenced within one hundred eighty (180) days from the date of issuance of such clearance, or if the building, work or use authorized by such clearance is suspended or abandoned at any time after the work is commenced and a period of one hundred eighty (180) days has passed. Before such work can be recommenced, a new permit shall first be obtained to do so.
2. A permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence the work within the time required by this Section for good and satisfactory reasons. The Zoning Administrator may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken.
3. Any requirements or stipulations conditional upon which the clearance was issued are complied with.

H. FEE.

The application for Zoning Clearance shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the City Council and filed in the office of the City Clerk. No part of the filing fee shall be refundable. Payment of the filing fee shall be waived when the petitioner is the City, County, State or Federal Government.

I. REVOCATION.

The Zoning Administrator may, in writing, suspend or revoke a permit issued under the provision of this Ordinance when the permit is issued in error or on the basis of incorrect information supplied, or in violation of an ordinance or regulation or the provisions of this Ordinance.

H. EXPIRATION OF ZONING CLEARANCE APPROVAL

1. One hundred eighty (180) days from the date of approval, the Zoning Clearance approval shall expire if the work or use approved has not commenced.
2. An extension of approval may be granted if the applicant files a written request for an extension with the Zoning Administrator prior to the approval expiring. The Zoning Administrator may extend the time of action by the applicant for a period not exceeding

one hundred eighty (180) days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken.

3. An application shall not be extended if this Ordinance or any other pertinent laws or ordinances have been amended subsequent to the date of application.

J. APPEAL.

Any applicant for Zoning Clearance approval who is dissatisfied or aggrieved by a decision of the Zoning Administrator may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of the Zoning Administrator's decision.

SECTION 304. DESIGN REVIEW.

A. PURPOSE.

1. The purpose of Design Review is to enable the Planning and Zoning Commission, to make a finding that the proposed development is in conformity with the intent and provisions of both this Ordinance, all other City Ordinances and protects and enhances the attractive appearance of development in the City of Cottonwood. The City of Cottonwood realizes the importance of a pleasing environment to protect the potential for business, industrial and residential development. The Design Review process is intended to preserve compatible land-uses and building design; rendering safe, attractive and harmonious development within the City and is therefore considered to be a furtherance of public health, safety and general welfare.

B. APPLICABILITY.

1. The provisions of this Section shall apply to all buildings, structures, signs, site plans, landscape plans and other plans which are to be hereafter erected, constructed, converted, established, altered (including resurfacing and repainting), or enlarged within the City of Cottonwood, as follows:
 - a. Proposed Development: The provisions of this Section shall apply to the exterior portion of all sites, buildings, structures and signs, except single-family residences not otherwise part of a Planned Area Development, which are to be hereafter erected, constructed, or established within the City of Cottonwood.
 - b. Existing Properties: The provisions of this Section shall apply to the exterior portion of sites, buildings, structures and signs, except single-family residences not part of a Planned Area Development, which are to be hereafter remodeled, converted, altered (including resurfacing and repainting), or enlarged after the effective date of this ordinance, or when there is a change in the distinguishing traits or primary features of the use of a building or land as evidenced by increased parking requirements, change in occupancy designation, change in outside storage, or other features and such change which occurs after the effective date of this Ordinance. The use of a building or land shall refer to the primary or specific purpose for which the building or land is occupied, designed, intended or maintained.
3. The provisions of this Section apply to grading activity, including any stripping, cutting, excavating, filling or shaping of the earth, land, soil or material, or removal of vegetation.

C. EXCEPTIONS:

1. Single-family detached dwellings and accessory uses which are not a part of a Planned Area Development; including manufactured homes.
2. Temporary sales and construction offices.
3. Public utility electrical transmission structures. Substations are considered to be voltage reduction facilities and are not exempt from the provisions of this Section.
4. Grading activity (cut and/or fill) on a parcel or total development site that is less than one (1) acre in size or that involves less than 50 cubic yards of material.
5. Under the following circumstances, the Zoning Administrator may approve a building, structure or grading without going to the Commission.
 - a. Signs which have no more than one background color, one letter color and are flush mounted to the building, or free standing and are professionally rendered so as not to create a "tacked on" or "eye sore" appearance.
 - b. That the building or structure is either an addition or an accessory use to an existing building and does not exceed one thousand (1,000) square feet. The addition or accessory use must be determined to be compatible with the existing building so as not to create a "tacked on" appearance.
 - c. That the addition or accessory use does not substantially alter the appearance of the site as seen from off the site.
 - d. That all proposed and existing buildings, structures, signs and landscaping on the site conform to the criteria set forth in Subsection E.
 - e. Grading activity (cut and/or fill) that involves less than 1,000 cubic yards of material and is considered minor or is part of a site development plan previously approved by the Planning and Zoning Commission, Development Review Board or City Council.
6. The Zoning Administrator shall have the same duties and powers of the Commission in regard to these buildings, structures and grading activity. If there are problems which cannot be resolved between the Planning Staff and the applicant, or the proposal does not clearly meet the criteria set forth in Subsection E. of this Section, the matter will be referred to the Commission.

D. APPLICATION FOR DESIGN REVIEW

1. All applications for Design Review shall first be reviewed by the Code Review Board. Upon satisfactory completion of the review of technical requirements and conformance with zoning regulations, the Zoning Administrator will provide the applicant with the application for Design Review.

2. Application for Design Review shall be filed with the Zoning Administrator on the form provided. The application form contains the required information which must be submitted with the application.

3. Prior to the preparation of final architectural or engineering drawings for any buildings, structures or grading to which this Section is applicable, the property owner or his agent shall submit the following information for consideration:
 - a. Application for Design Review.
 - b. Complete site plans showing the areas devoted to buildings, parking layout, existing grades and drainage systems, landscaped areas, with a description of size and type of landscape materials to be used and the method for maintaining same.
 - c. Elevation drawings of all sides of the building or structure with an indication of materials and colors being used. Submit material and color samples, as well as other supportive information as required to clarify the application.
 - d. Any proposed signs must be shown with a sketch showing; size, height and shape of the sign; with a description of materials and colors to be used. Free standing signs must be shown on the site plan and building mounted signs must be shown on the building elevation.
 - e. Grading plans submitted for review must include a site development plan in compliance with approved zoning district standards.
 - f. Grading activity (cut and/or fill) that involves 1,000 cubic yards of material or greater shall require preliminary engineering plans to be prepared by a Civil Engineer. Submit all preliminary grading plans to the Community Development Department, who will then forward copies of such to the Building Official for preliminary review and comments prior to Design Review consideration.
 - g. The grading plan shall indicate the limits of cut and fill in relation to existing and proposed conditions with elevation contours shown and cross-section drawings as necessary to adequately describe the proposed project. The grading plan must adequately describe the proposed changes in relation to existing topographical conditions, including natural slopes and drainage features. Three dimensional studies shall be required for major projects. Any grading activity related to a proposed subdivision must be in compliance with an approved Preliminary Plat.
 - h. All other items as indicated in the application.

4. The Planning and Zoning Commission shall have the power to approve, conditionally approve or deny all applications for Design Review.

E. CRITERIA:

1. The Design Review process shall be guided by the following criteria:

- a. **Architectural Quality:** The design quality of a building or structure shall enhance, strengthen and preserve the qualities and character of surrounding development and the City of Cottonwood as a whole.
- b. **Materials, Colors and Textures:** The materials used in constructing the building, structure, or sign shall be of similar or superior quality, color and texture and shall be compatible with those materials used in construction of buildings, structures or signs in the general proximity to the applicant's request.
- c. **Scale:** The buildings, structures or signs shall be in proper scale with the parcel upon which it is located. The scale of the proposed buildings, structures or signs shall be compatible with those in the general proximity to the applicant's request and to the community.
- d. **Proportion:** The relationship of the width of a building or structure to its height, as well as the relationships of the buildings components, including windows, doors, openings, walls and similar architectural elements, shall include balanced and harmonious proportions.
- e. **Architectural Details:** Doors, windows, eaves, cornices and other architectural details of a building or structure shall be visually compatible with buildings and structures to which they are related.
- f. **Site Design:** The overall design of the site plan, which is comprised of buildings, structures, engineering features, landscape and open space areas, parking and circulation facilities and similar elements, shall be done in a comprehensive manner that integrates the various aspects in a unified, efficient manner and it shall not adversely affect the existing or potential development of properties in the general proximity.
- g. **Access:** Ingress, egress and on-site traffic, parking and circulation shall be designed to promote safety and convenience and shall meet the minimum requirements outlined in Section 406 Parking and Loading Requirements of this Ordinance.
- h. **Landscape Design:** Landscaping, including trees, plants and integrated site features, shall visually enhance the overall development project and be compatible with the surrounding buildings, structures and natural landscape, and shall incorporate xeriscape design principles with drought-tolerant, low-water use plant varieties.

- i. Lighting: Any on-site illumination shall be architecturally compatible to the overall project and not create a negative or visually detrimental effect on the building or neighboring properties.
- j. Signs: Signs shall be appropriate in scale, proportion, color and overall design relative to the exterior architectural character of the building, structure or site.
- k. Health, Welfare and Safety: The proposed development shall not have any detrimental effect upon the general health, welfare, safety and convenience of persons within the community.
- l. Site Grading: All grading plans must be submitted for preliminary technical review from the Building Official to ensure compliance with code requirements, including slope limits, setbacks, drainage, erosion, dust control, and other concerns.
- m. Grading Criteria: The design and implementation of all grading shall address the following:
 - 1) Ensure that grading activity is designed and implemented to minimize adverse impacts and include appropriate restorative measures;
 - 2) Avoid unnecessary visual scarring, excessive deposits of fill material on slopes and other adverse visual impacts resulting from cut and fill;
 - 3) Blend with the natural contours of the land. Alterations to the terrain shall be integrated with the existing landscape in a harmonious manner;
 - 4) Conserve the natural scenic beauty and vegetation of the site to the greatest extent possible, including major rock outcroppings, natural drainage courses and native plants and trees;
 - 5) Restrict the areas and volumes to the minimum necessary to implement the planned development;
 - 6) Ensure that graded areas, hillsides, slopes, or other areas subject to erosion are stabilized;
 - 7) Reduce the erosion effects of storm water discharge, preserve the flood-carrying capacity of natural or constructed waterways by limited soil loss, and protect drainage ways from siltation; and,
 - 8) Minimize dust pollution and surface water drainage from graded areas during grading and development.
- n. Architectural Embellishments: The design and placement of architectural embellishments shall be subject to the standards for Design Review as described in Section 404. H. 3. "Height Regulations."

- o. Non-Habitable Rooftop Structures: The design and placement of non-habitable rooftop structures shall be subject to the standards for Design Review as described in Section 404. H. 4. “Height Regulations.”
- p. Monuments, Memorials and Statues: The design and placement of freestanding or attached monuments, memorials, statues, art installations or similar structures shall be subject to the standards for Design Review as described in Section 404. H. 6. “Height Regulations.”
- q. Wireless Communications Facilities: The design and placement of wireless communication facilities shall be subject to the standards for Design Review as described in Section 404. H. 8. “Height Regulations.”

F. APPEAL.

Any applicant or any citizen of the City of Cottonwood who is dissatisfied or aggrieved by the decision of the Planning and Zoning Commission may appeal such decision to the City Council by filing a written Notice of Appeal with the City Clerk, not later than fifteen (15) days from the date of the decision.

G. VIOLATION AND ENFORCEMENT.

- 1. Prior to issuance of a building permit or grading permit the Zoning Administrator shall determine that all requirements of the Design Review process have been met.
- 2. The Zoning Administrator shall insure that all matters are undertaken according to conditions of the approved plans. Noncompliance with the approved plans shall be grounds for stopping work on the project or for denial of a Certificate of Occupancy.

H. CONFORMANCE TO CITY CODES, ORDINANCES AND REGULATIONS.

Any reference to “Development Review Board” or “Design Review Board” in this ordinance or any other City of Cottonwood code, ordinance or regulation shall be considered to mean the same thing as “Planning and Zoning Commission,” unless the City Council chooses to appoint a separate Design Review Board. Any reference to “Development Review” shall be considered to mean the same thing as “Design Review.”

SECTION 305. CODE REVIEW.

A. PURPOSE.

The purpose of Code Review is to enable the Code Review Board to make a finding that the proposed development is in conformity with the intent and provisions of both this Ordinance and all other City Ordinances. The provisions of this Section shall apply to all uses except for single-family residences and individual mobile homes.

B. APPLICATION FOR CODE REVIEW.

1. Application for Code Review can be made after the proposed development has received preliminary approval from the Development Review Board.
2. A request for plan approval shall be filed with the Building Official on a form prescribed by the Building Official. The request for approval shall be accompanied by four (4) identical copies of the plan. Each copy shall be on one or more sheets of paper measuring not more than twenty-four (24) by thirty-six (36) inches, drawn to a scale not smaller than forty (40) feet to the inch, which show the following:
3. A site plan showing the following a through o:
 - a. Lot Dimensions.
 - b. Location, size, height, use and exterior materials of all buildings and structures.
 - c. Size and dimensions of yards and space between buildings.
 - d. Location and height of walls and fences.
 - e. Location, number of spaces, dimensions, circulation patterns and surface materials for all off-street parking and loading areas, driveways, access ways and pedestrian walkways.
 - f. The location, dimensions, area, materials and lighting of signs.
 - g. Location and general nature of lighting.
 - h. Street dedications and improvements.
 - i. Existing and proposed grades and drainage systems.
 - j. The size and location of all existing and proposed public and private utilities. All easements must

- k. Natural features such as mesas, rock outcroppings or streams and man-made features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered.
 - l. Landscaping, including all surfacing material around buildings and in all open spaces and methods for maintaining said landscaping.
 - m. A vicinity sketch showing the location of the site in relation to the surrounding street system. Adjacent properties and their uses shall be identified.
 - n. A legal description of the land included in the site plan and of the lot; the name, address and telephone number of the owner, developer and designer.
 - o. Any other information which the Zoning Administrator may find necessary to establish compliance with this and other Ordinances.
4. Drainage report and drainage plan which conform to the requirements of the City of Cottonwood Ordinance Number 172.
5. A complete set of construction drawings which conform to the following Codes:
- a. 2003 International Fire Code
 - b. 2003 International Residential Code
 - c. 2003 International Building Code and Appendix G
 - d. 2003 International Plumbing Code
 - e. 2003 International Fuel Gas Code
 - f. 2003 International Mechanical Code
 - g. 2003 National Electric Code

C. FEE.

The application for Code Review shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the City Clerk. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is the City, County, State or Federal Government.

D. REVIEW PROCEDURES.

- 1. The Building Official shall forward the complete application together with all accompanying plans and documents of the Code Review Board for their consideration.
- 2. Within fifteen (15) working days of receipt of a complete application, the Code Review Board shall consider the application. The Code Review Board shall approve,

conditionally approve or reject said plan based on its compliance with all provisions of this Ordinance, all other Ordinances, Master Plans of the City of Cottonwood and the Review Criteria of Subsection E. The decision shall set forth in detail the reasons for

denial, or in the event of conditional approval, the changes or additions which are necessary to make the plan acceptable.

3. All copies of the approved or disapproved plan, together with any conditions, shall be dated and signed by the Code Review Board. One copy shall be to the applicant, one copy shall be filed in the project review file in the Planning & Zoning Department.

E. REVIEW CRITERIA.

1. In reviewing a proposed development, the Code Review Board shall consider the following:
 - a. They shall enforce all of the requirements as set forth previously by the Development Review Board preliminary development review.
 - b. The proposal shall adequately and safely provide for vehicular and pedestrian safety by reason of properly arranged vehicular and pedestrian ingress and egress or that excessive traffic congestion will not be created.
 - c. Proposed lighting shall be so arranged as to not shine upon or reflect onto adjoining properties and proposed signs and their lighting shall be of such size, location and color as to not interfere with traffic or limit visibility of adjoining property.
 - d. Adequate provision shall be made to protect adjoining properties and structures from excessive and unreasonable noise, vibrations, gases, odors and other factors which will interfere with the use and enjoyment of surrounding properties.
 - e. The proposal shall not be detrimental to or endanger the public peace, health, safety or general welfare of the surrounding properties, or unreasonably interfere with the use or enjoyment of property in the vicinity by occupants thereof for lawful purposes.
 - f. The required landscaping shall be provided and maintained in an attractive manner.
 - g. The drainage report and plan must meet the minimum requirements of Ordinance Number 172 and not create an adverse effect on adjacent properties.
 - h. The construction plans meet the Code requirements of the International Building Codes outlined in Subsection B.5.

F. APPEALS.

Any applicant for plan approval who is dissatisfied or aggrieved by the decision of the Code Review Board may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of the Code Review Board's decision.

G. VIOLATION AND ENFORCEMENT.

1. Prior to the issuance of a building permit the Building Inspector shall ascertain that the Development Review Board has approved plans which are in conformance to those presented with the building permit application and that the time limitations imposed by this Ordinance have not elapsed.
2. The Building Official shall ensure that all matters are undertaken according to the conditions of the approved plan. In the event of a violation, the Building Official shall notify the permittee by mail that he/she is in violation of the conditions of the approved plan. If no attempt to change the circumstances of the violation is made within ten (10) days after notification, the building permit shall be revoked and considered null and void.
3. The Code Review Board shall have the authority to withhold electrical power to insure compliance with the conditions of the Building Permit and/or authorized to be withdrawn temporary electrical power as a means of enforcing compliance with the conditions of the permit or Conditional Certificate of Occupancy.

H. EXCEPTION.

Under certain circumstances where the nature of the permitted or conditional use is such that it would be unnecessary or economically unfeasible for the applicant to prepare a plan in accordance with this Section, the Code Review Board may waive certain of the requirements of Subsection B. of this Section, but in all cases the applicant will be required to prepare and submit some type of site plan drawn to scale.

SECTION 306. APPEALS AND VARIANCES.

A. APPEALS TO THE BOARD OF ADJUSTMENT.

1. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or department of the City affected by any decision of the Zoning Administrator.
2. Applications for any matter to be considered by the Board shall be filed with the Zoning Administrator on forms furnished for the purpose within thirty (30) days after the action appealed from and shall specify the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.
3. The appeal stays all proceedings in the matter appealed from, unless the Zoning Administrator certifies to the Board that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril; to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by a court of record on application and notice to the Zoning Administrator.
4. The Board shall hear the appeal within thirty (30) days and shall give notice of hearing by publication of a notice in the official newspaper of the City and by posting the property affected not less than fifteen (15) days prior to the hearing. The notice shall set forth the time and place of the hearing and include a general explanation of the matter to be considered.
5. The Board may reverse or affirm, wholly or partly, or modify the order, requirement or decision of the Zoning Administrator appealed from and make such order, requirement, decision or determination as necessary.
6. Any party may appear at the hearing in person or by agent or attorney. Parties shall have the right to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination of witnesses as may be required for a full and true disclosure of the facts. The Board shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence and in furtherance of this policy, may limit cross-examination.
7. Any aggrieved person may appeal to the Board of Adjustment for a Variance from the terms of the Zoning Ordinance only, if because of special circumstances applicable to the property, including its size, shape, topography, location or surroundings the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of 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 special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
8. A Variance shall not be granted by the Board based on personal inconvenience and/or financial hardship or as the result of self-imposed actions by a property owner or appellant.

9. In granting a Variance, the Board may impose such conditions and safeguards as are appropriate to insure that the purpose and intent of this Ordinance will be fulfilled. Failure to comply with 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.
10. No nonconforming use or violations of this Ordinance with respect to neighboring lands, structures or buildings, in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts, shall be considered grounds for granting a Variance.
11. Every Variance granted shall be personal to the appellant therefor and shall be transferred and shall run with the land only after completion of any authorized structure or structures.
12. Nothing herein contained shall be construed to empower the Board to change the terms of this Ordinance, to authorize uses which violate any other City Ordinance, to affect changes in the Zoning Map, or to add to or change the uses permitted in any zoning district.

B. APPEAL FROM THE BOARD.

The decision of the Board shall be final, provided, however, that any person aggrieved by the decision of the Board, or a taxpayer, or a municipal officer may, at any time within thirty (30) days after the filing of the decision in the office of the Board, petition the court for special action review of the Board's decision. The filing of a petition for special action relief shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and for good cause shown, grant a restraining order and on final hearing may reverse or affirm, wholly or partly, or may modify the decision reviewed.

C. FEES.

1. Upon filing an application for appeal, the appellant shall pay a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the City Clerk. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is the City, County, State or Federal Government.
2. In the case of an appeal for a Variance to more than one provision of this Ordinance, the filing fee shall equal the total amount chargeable for all provisions as prescribed by the fee schedule.

SECTION 307. TEMPORARY USE PERMITS

A. PURPOSE.

Temporary events, activities and uses are intended to operate for a limited period of time. Such temporary uses are permitted in appropriate zoning districts subject to meeting minimum standards but which by their nature involve a non-permanent use of a site and therefore generally have a less restrictive set of development standards. Temporary uses include special events provided for the enjoyment of the public, civic events in recognition of issues of public importance, sales and promotional activities intended to serve commercial interests, seasonal activities, temporary construction related activities, and similar temporary uses.

B. APPLICABILITY.

The temporary uses listed herein shall be permitted in various zoning districts as specified, subject to the restrictions and standards established in these regulations, including the requirement for a Temporary Use Permit, unless exempted. Additional review and approval may be required for certain types of temporary uses, as specified herein, including review and approval by the City Parks and Recreation Department, Police Department, Public Works Department, Fire Department and Building Division, as well as outside agencies, including Yavapai County Health Services Department, ADOT and others, as required.

C. GENERAL REGULATIONS.

1. These regulations are applicable to all zoning districts, unless restricted by this ordinance. The allowable time period for a temporary use shall be as described in this section or as specified through the permitting process for each use. No temporary use or structure shall continue for such a length of time that it in effect constitutes a permanent use.
2. Unless otherwise exempted, all applications for temporary uses shall require site plan approval to address access, traffic safety, parking, signage, compatibility with surrounding uses and other site development concerns.
3. Any tent, trailer, recreational vehicle or structure subject to the requirements of these regulations and intended or used for human occupancy shall comply with the International Building Codes, as amended by the City of Cottonwood, as well as with any County Health Services Department requirements, and shall not be used or occupied until approved by the City of Cottonwood Building Division.
4. Temporary outdoor seasonal uses or other on-site temporary uses at retail stores or shopping centers that occur on the property on an annual basis or other regular period basis exceeding the allowable time periods shall be treated as a conditional use and shall be subject to the requirements for a Conditional Use Permit. Except as specifically permitted in this ordinance, no such recurring use or uses at any one location shall be permitted for a period exceeding three (3) months total within any one calendar year without obtaining a Conditional Use Permit.
5. Separate permits or approvals may be required by County or State agencies for any food or drink provided at temporary events. Contact the applicable agencies well in advance of the event to ensure adequate time for processing any applications, including Yavapai County Health Service Department regarding requirements for food service handling

and the Arizona Department of Liquor Licenses & Control regarding requirements for Liquor Permits.

D EXCEPTIONS.

The following uses and activities shall be considered exempt from the requirements for a Temporary Use Permit where such uses are conducted entirely on private property or permitted public facilities. Uses listed as exempt are required to be in compliance with all applicable City codes, ordinances and regulations at all times, including those pertaining to noise, signs and off-premise activities.

1. Verde Valley Fair Grounds: Activities conducted entirely within the boundaries of the Verde Valley Fair Grounds, not including events with outdoor amplified music or temporary structures subject to building or fire codes.
2. Weddings and funeral ceremonies. Weddings, funerals and similar religious ceremonies conducted at churches, cemeteries, private facilities or residences.
3. Yard and garage sales. Sales events conducted at single-family residential properties by and for the residents to allow disposal of miscellaneous used personal property, where such events are otherwise in compliance with all applicable City codes, ordinances and regulations.
4. Benefit car washes and bake sales. One-time events at approved locations conducted by individuals, schools, churches, non-profit groups, and other non-commercial groups entirely for benefit fundraising.
5. Election activities and political rallies. Activities, meetings, and gatherings of a political nature.
6. Church and school rummage sales. Temporary sales events conducted by and for churches and schools entirely at the church or school location. Benefit sales events that include outdoor activities with live or amplified music or any temporary structures, or other types of unrelated activities are required to obtain a Temporary Use Permit.
7. Private community center events. Activities and events, including craft and art shows, meetings, exhibitions and similar community events, conducted by and for residents of planned developments within their community centers. Events that include any temporary structures, outdoor musical or performance activities, or are sponsored or managed by organizations or businesses from outside the community are required to obtain a Temporary Use Permit.

E. TEMPORARY USE PERMIT APPLICATION.

Application for a Temporary Use Permit shall be filed with the Community Development Director or his/her designee on a form provided by the City. The application shall include a

detailed site plan showing all information necessary to demonstrate that the proposed temporary use will comply with all applicable City codes, ordinances and regulations. The applicant shall furnish the City and other relevant agencies with any additional information that may be considered necessary to adequately review and make a decision, including estimated attendance for event, peak times and estimated number of employees, vendors or staff on-site at peak times, noise levels, lighting, traffic control plan, dust control and other conditions that may impact surrounding properties or the city in general.

1. Review and Approval:

- a. Upon receipt of a complete application, the Community Development Department will route copies to other City departments for review and comments. Such comments will be returned to the Community Development Department within a specified timeframe.
- b. After review of all required information and comments from other departments and agencies, the Community Development Director shall approve, conditionally approve, or deny the application. Approval shall be given only when in the judgment of the Director such approval is in compliance with all applicable City ordinances and regulations.

F. **SPECIFIC TEMPORARY USES.** The following section lists specific temporary uses and standards applicable to those uses:

1. **Special Events.** Includes indoor and outdoor concerts and music festivals, arts and crafts events, cultural festivals, carnivals and circuses, religious meetings and revivals, parades, vehicle shows, rodeos and related activities, outdoor entertainment, neighborhood block parties, and public sporting and recreational events shall be subject to the following requirements:
 - a. Permitted in commercial, industrial, planned development or community facility zoning districts, or at existing public facilities, parks, streets or property, subject to requirements contained herein;
 - b. Such events shall be held no more than four (4) times a year at a location and shall not be more than seven (7) days within any 30 day period. Events conducted more frequently or for greater duration at a location shall require approval of a Conditional Use Permit;
 - c. Indicate primary access routes to the property and available parking for the crowds anticipated. Special traffic control personnel may be required for larger events;
 - d. Events intending to use public right-of-way for all or part of their operations, including parades, festivals, block parties or other types of gatherings, shall obtain necessary right-of-way permits from the City Public Works Department, approval.

from the Police Department and other agencies, as necessary to ensure public safety;

- e. Operation of amusement rides in association with carnivals and festivals shall be in accordance with all state and local regulations, including Arizona Revised Statutes § 44-1799.61 et. seq., regarding Amusement Ride Safety; and
 - f. Upon cessation, expiration, or revocation of the permit, the premises will promptly be cleaned up and restored to substantially the same condition as existed prior to commencement of such use as permitted. Failure to comply with this provision will require approval all future events at the property to be contingent on the submittal of a clean-up bond in an amount and form adequate to ensure the City may cause the restoration of the property at the completion of the event.
2. Temporary Sales Events.
- a. Temporary sales events, other than those listed as exempt, are permitted only on developed sites with a permanent commercial or industrial use, and only on improved areas of the site. This includes, but is not limited to, vehicle sales events, general merchandise sales, and promotional sales events;
 - b. Each new or recurring event at a location requires a separate Temporary Use Permit, to be issued by the City following review and approval of the site plan and other required application materials;
 - c. If the event is proposed for an existing parking lot, there must be no disruption of normal required parking, access and traffic flow, pedestrian access ways or sidewalks, or landscaped areas;
 - d. The application shall specify the dates and times for the event including set-up and tear-down, and what provisions are to be made for site security, sanitation, trash removal, outdoor lighting or other electrical needs, and signage; and
 - e. Such events shall be held no more than four (4) times during a calendar year on a property and shall not be more than seven (7) consecutive days within any 30 day period. Events conducted more frequently or for greater duration on a property shall require approval of a Conditional Use Permit.
3. Temporary Street Vendors. These provisions shall not apply to ongoing street vendor uses or permitted sidewalk sales display of products associated with an abutting permanent business use, which are regulated as a separate type of commercial use. Temporary vendor carts and stalls shall be subject to the following regulations:
- a. Temporary vendor carts and stalls may be approved in association with permitted special events for the period of the event. Permanent or seasonal street vendor use shall be subject to separate City requirements and regulations;

- b. The cart or stall shall not be located so as to block any public sidewalk or entry to any building. A minimum five (5) feet clear area shall be maintained at all times for pedestrian access on sidewalks;
 - c. The cart or stall shall not block any driveway or other point of vehicular access to any property;
 - d. Where located on private property, the vendor shall provide written consent of the owner of the property to place the cart or stall on the property;
 - e. Vendors operating on any sidewalk or public right-of-way are required to obtain approval from the City Public Works Department; and
 - f. No amplified music or sound amplification may be used.
4. Christmas Tree and Pumpkin Sales Lots.
- a. Christmas tree sales lots shall be allowed from the period between Thanksgiving and New Year's Day. Pumpkin sales lots shall be allowed only during the month of October;
 - b. Set up of the seasonal tree sales lot may begin no earlier than Thanksgiving day and all products, materials, temporary structures, signs, fencing and other evidence of the operation must be completely removed from the site no later than New Year's Day;
 - c. Permitted on private property in commercial, industrial or agricultural districts, or at properties with an established church or school. All activities, including product display, parking and loading operations, must occur entirely on private property and may not occur in the public right-of-way;
 - d. An approved Business Registration must be filed with the City of Cottonwood prior to beginning operations, including such operations by non-profit organizations;
 - e. A site plan must be submitted with the application for a seasonal Christmas tree sales lot showing the layout for tree display areas, pedestrian circulation aisles, sales transaction area, temporary structures, temporary fencing and customer parking area with adequate parking capacity provided in a safe, convenient location;
 - f. A site plan must be submitted with the application for a seasonal pumpkin sales lot showing the product display areas, sales transaction area, temporary structures, temporary fencing and customer parking area with adequate capacity provided in a safe, convenient location;
 - g. Provide detailed information regarding the location, size and type of any temporary trailers proposed for the site;
 - h. Fire Department approval is required prior to any site activity; and

- i. Provide information regarding any proposed amplified music, and provide a complete lighting plan and a sign plan for the proposed operation.
5. Temporary Construction Uses, Construction Office Trailer, Construction Watchperson's Trailer, and/or Construction Storage Yards.
 - a. Temporary construction trailer, construction office, watchperson's trailer and/or construction storage yard located on-site for approved construction projects are allowed with a Temporary Use Permit in commercial, industrial or planned development zoning districts or with a multi-unit residential development or subdivision;
 - b. Length of permit shall be one (1) year with additional extensions of one (1) year for active projects;
 - c. The temporary use or structure shall be removed from the property upon issuance of a Certificate of Occupancy or cessation of construction activities;
 - d. Watchperson trailers shall be limited to one (1) per construction site; and
 - e. Water and sanitary facilities shall be provided, as required by the City.
6. Temporary Concrete Batch Plant, Asphalt Plant, Stone Crushing and/or Processing Operations.
 - a. Temporary batch plants and material processing operations located on-site for approved construction projects are allowed with a Temporary Use Permit in commercial, industrial or planned development zoning districts or with a multi-unit residential development or subdivision. Such uses shall be required to obtain all necessary permits from applicable federal, state and local agencies prior to beginning operations;
 - b. Temporary batch plants and material processing operations located off-premise may be considered in commercial or industrial zoning districts in association with a permitted construction project located within the City of Cottonwood subject to obtaining a Conditional Use Permit;
 - c. The application for any temporary material processing plant shall include a detailed routing plan indicating truck and vehicle access to the plant location along with estimated hours of operation and frequency of travel. Primary routing shall be by arterial and collector streets and highways. Operations proposing to use local residential streets for direct access to and from the plant shall be required to obtain a Conditional Use Permit;
 - d. Upon completion of activities, the site shall be completely restored to the pre-development condition which existed prior to the beginning of operations;

- e. Such temporary facilities may only be considered for projects located within the City of Cottonwood, such as local, state or federal road projects, public works improvements, newly platted subdivisions or individual commercial development sites;
 - f. Such facilities shall be permitted only for the period of construction activity for a one (1) year period. An extension of the permit may be considered for up to one (1) year; however, any additional time beyond a total of two (2) years shall require approval of a Conditional Use Permit;
 - g. Facilities proposed to be located within one thousand (1,000) feet of any property used for residential purposes shall require approval of a Conditional Use Permit; and
 - h. Prevention of any dust, fumes, vapors, mists, or gas nuisances due to operations shall be maintained at all times in accordance with established City property nuisance standards.
7. Real Estate Sales Office and Model Homes. New units constructed as part of a subdivision may be used as a sales office and model home display for properties within that development subject to the following:
- a. Permitted in any district for any new subdivision development approved in accordance with the City of Cottonwood Subdivision Ordinance; and
 - b. Maximum length of permit shall be two (2) years, and may be renewed from year-to-year until the completion of the development. The subdivision sales office and model home use shall be discontinued following the sale or occupancy of all homes in the subdivision other than the model homes and the property shall be restored in a manner similar to surrounding residential uses.

G. SIGNS FOR TEMPORARY USES.

- 1. General Requirements:
 - a. Signs displayed in connection with a temporary use shall be approved under the Temporary Use Permit, except as exempted by this ordinance.
 - b. Off-premise signs shall not be permitted for temporary uses, except as allowed by this ordinance.
 - c. A site plan with proposed sign locations and graphic exhibits describing the proposed signs shall be submitted for review with the Temporary Use Permit application.

- 2. Banners are permitted for temporary uses, subject to the following requirements:

- a. A maximum of one (1) banner per building street frontage is allowed for a permitted temporary use;
 - b. The maximum allowed area for each banner shall be at least thirty-two (32) square feet and no more than forty (40) square feet;
 - c. Banners may not be attached to utility structures or street signs, located in a public right-of-way, or attached to trees or plants;
 - d. Banners shall be attached flat on exterior building walls or site walls and may not extend above the roof line of the building; and
 - e. Banners announcing or identifying events or uses conducted outside of the City of Cottonwood shall be prohibited.
3. Special Event Signs:
- a. Issuance of an approved Temporary Use Permit is required prior to installation of special event signs;
 - b. Special event signs may be installed on the site of the special event no more than ten (10) days prior to the beginning of the event and they must be removed within twenty-four (24) hours of the conclusion of the event;
 - c. A-frame or portable signs for special events shall be limited to size restrictions as set forth by this ordinance;
 - d. Signs may not be attached to traffic control devices, utility poles or street signs; and
 - e. Temporary on-site banners shall be permitted for Special Events subject to compliance with the provisions of this ordinance.
4. Temporary sales events signs.
- a. Issuance of an approved Temporary Use Permit is required prior to installation of any signs announcing or advertising a temporary sales event; and
 - b. Temporary on-site sales event signs may be installed on a business premise no more than ten (10) days prior to the event with an approved Temporary Use Permit and such signs must be removed within twenty-four (24) hours of the conclusion of the event.

H. APPEALS REGARDING TEMPORARY USES.

1. Any person may file an appeal with the Cottonwood City Council over any decision of the Community Development Director regarding the granting, or denying, of a Temporary Use Permit. If no appeal is filed within fifteen (15) days after the Community Development Director's action, the action shall be considered final.
2. A written appeal shall be filed with the City Clerk who shall then schedule the item for consideration by the City Council. The Council shall consider the appeal at their regular meeting and shall either uphold the action of the Community Development Director, reverse that action, or make a decision of its own findings.
3. The Council may elect to set the matter for a public hearing and if such action is taken, a legal notice shall be published at least once in the official newspaper of the City and the property included in the application shall be posted at least fifteen (15) days prior to the hearing date. The Community Development Director shall submit a report to the Council setting forth the reasons for the actions taken in the issuance or denial of the Temporary Use Permit.
4. If the Council makes a decision which upholds granting of a permit, the Council may designate such conditions in connection with the permit as it deems necessary to secure the intent and purpose of this Ordinance and require such guarantees and evidences that such conditions are being, or will be complied with.
5. The Council's decision shall be final and shall become effective immediately. Notice of the decision shall be mailed to the applicant at the address shown on the application.

I. REVOCATION.

1. Temporary Use Permits granted in accordance with the provision of this Ordinance may be revoked if any of the conditions or terms of the permit are violated or if any law or ordinance is violated in connection therewith.
2. The Community Development Director shall notify the permittee of a violation or termination of a Temporary Use Permit by mail. If no attempt to change the violation is made within ten (10) days after notification, the permit shall be revoked and considered null and void and the continued violation of the terms of the Temporary Use Permit shall be deemed a violation of this Ordinance and shall be subject to enforcement action through the Administrative Hearing Officer of the City of Cottonwood.
3. Any Temporary Use Permit issued by the Community Development Director shall be considered null and void if the operation or activity does not conform to the approved plan of operations. Any major deviations requested from the originally approved site plan or plan of operations, shall be processed as a new Temporary Use Permit.

J. FEES.

The application for a Temporary Use Permit shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the City Clerk. No part of the application fee shall be returnable. Payment of the application fee shall be waived when the petitioner is the City, County, State or Federal Government. All other agencies, organizations and entities shall be required to pay all required fees unless such fees are waived by the City Council.

SECTION 308. MEDICAL MARIJUANA FACILITIES

A. PURPOSE. The purpose of this Section is to implement the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*) and to regulate the locations and operations of medical marijuana dispensaries and related cultivation and processing uses in the City of Cottonwood so as to promote and protect the public health, safety and welfare of the residents of Cottonwood. It is neither the intent nor the effect of this chapter to condone or legitimize the use or possession of marijuana except as allowed by Arizona law. Further, the purpose of this section is to:

1. Provide for the safe sale and distribution of medical marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Arizona Medical Marijuana Act and as managed through the Arizona Department of Health Services.
2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health and safety concerns.
3. Adopt a mechanism for monitoring compliance with the provisions of this Section.
4. Create regulations that address the particular needs of the patients and residents of the City and coordinate with rules and regulations that may be enacted by the state regarding the issue.
5. Facilitate the implementation of the Arizona Medical Marijuana Act without going beyond the authority granted by it.

B. DEFINITIONS. The definitions contained in the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*) shall serve as the primary guide for the enforcement and practices of all such related activities. In addition, definitions contained herein are intended to further assist with the enforcement of this Ordinance, as follows:

1. DHS - The Arizona Department of Health Services or its successor agency.
2. DISPENSARY AGENT - A medical marijuana dispensary director, officer, employee or volunteer who has been issued a valid registry identification card by the DHS.
3. MEDICAL MARIJUANA - All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
4. MEDICAL MARIJUANA CULTIVATION FACILITY- A building or structure and the associated premises used to grow the marijuana plant, which may include accessory storage and processing of medical marijuana grown on premises.
5. MEDICAL MARIJUANA DISPENSARY- A non-profit entity defined in Arizona Revised Statutes § 36-2801, *et seq.*, that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

6. **MEDICAL MARIJUANA FACILITY** - A medical marijuana dispensary, cultivation facility, qualified patient or designated patient or caregiver cultivation facility, infusion or manufacturing facility, or similar operations or any combination thereof, as authorized by law.
7. **MEDICAL MARIJUANA INFUSION (MANUFACTURING) FACILITY** - A facility that incorporates medical marijuana (cannabis) by means of cooking, blending, or incorporation into consumable/edible goods or similar products.
8. **MEDICAL MARIJUANA QUALIFYING PATIENT** - A person who has been diagnosed by a physician as having a debilitating medical condition as defined in Arizona Revised Statutes; and who has been issued a Registry Identification Card by DHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.
9. **MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION FACILITY** - Enclosed, locked facilities approved for the cultivation of medical marijuana plants by registered qualifying patients or their designated caregivers where a registered nonprofit medical marijuana dispensary is not operating within twenty-five miles of the qualifying patient's home.
10. **OPERATOR** - The chief executive officer of the medical marijuana dispensary, whether referred to as the principal officers, board members, designated agents, executive director, president, CEO or other designation.
11. **SCHOOL** – Public and private educational and child development facilities certified by the State of Arizona, including a daycare facility, preschool, kindergarten, elementary school, middle school or high school.

C. **REQUIREMENTS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.**

1. **General Requirements.** The establishment of medical marijuana dispensaries, cultivation sites and other related facilities shall be subject to the provisions of the Arizona Medical Marijuana Act as described in Arizona Revised Statutes, Title 36 and any associated rules subsequently enacted by the Arizona Department of Health Services or the City of Cottonwood for the implementation the Act, including, but not limited to, authorization of and registration of dispensaries and cultivation facilities, registration of qualifying patients and designated caregivers, review and inspection of facilities and security measures, and other standards and procedures expressed in the Act for similar purposes. The regulations in this Ordinance are intended to allow the uses authorized under state law to the extent permissible while ensuring such uses are established in a reasonable manner to protect the health, safety and general welfare of the residents of the City of Cottonwood.
2. **Medical Marijuana Dispensary.**

- a. Registration with the City of Cottonwood is required for a Medical Marijuana Dispensary, as described in this Ordinance.
 - b. A medical marijuana dispensary facility shall be a Permitted Use in the C-1 (Light Commercial), C-2 (Heavy Commercial), and I-2 (Heavy Industrial) Zoning Districts, subject to meeting required development standards.
 - c. A dispensary may be located in association with a cultivation facility in the I-2 Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.
 - d. The dispensary sales area that may be accessed by the patients or the public shall be limited to the distribution and sales of medical marijuana and related information and products for qualifying patients. There shall be no other retail or health care services provided from the dispensary sales area nor shall access to such services be provided from the dispensary sales area.
 - e. The dispensary shall be located in a permanent building and may not be located in a temporary structure, trailer, cargo container, motor vehicle or other similar non-permanent enclosure.
 - f. **Dispensary Entrance.** A dispensary may have more than one means of egress from the interior so as to meet building codes and public safety concerns; however, it shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana. The dispensary entrance shall be located and maintained clear of any barriers, landscaping and similar obstructions that may block the view so that the entrance and pedestrian access is clearly visible from the public street, sidewalk and parking area.
 - g. **Parking.** A dispensary shall provide on-site parking or parking immediately adjacent to the building used as the dispensary.
 - h. **Minimum Separation Requirements.** Medical marijuana dispensary and cultivation facilities shall not be located within five-hundred (500) feet of the exterior property lines of a public or private school, including a daycare facility or preschool, kindergarten, elementary school, middle school or high school.
 - i. **Method for Computing Measurement.** For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation.
 - j. Operating hours shall not be earlier than 7:00 a.m. and not later than 7:00 p.m.
 - k. Drive-through services are prohibited.
3. **Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities.**

- a. Registration with the City of Cottonwood is required for Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities, as described in this Ordinance.
 - b. A medical marijuana cultivation facility, whether separate or combined with an authorized medical marijuana dispensary and/or infusion facility, shall be allowed in the I-2 (Heavy Industrial) Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.
 - c. Medical marijuana infusion shall be allowed as a permitted use in the I-2 (Heavy Industrial) Zoning Districts, subject to meeting required development standards.
 - d. Medical marijuana infusion facilities shall be permitted as an accessory use with an approved medical marijuana dispensary.
 - e. Minimum Separation Requirements:
 - 1) Medical marijuana cultivation facilities or infusion facilities shall not be located within five-hundred (500) feet of the exterior property lines of a school, including a daycare facility, preschool, kindergarten, elementary, middle school or high school.
 - f. Method for Computing Measurement. For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation
 - g. Retail sales of medical marijuana shall be prohibited from a medical marijuana cultivation facility or infusion facility; however, a separate authorized dispensary may be located at the same site subject to the development standards described in this Ordinance.
 - h. There shall be no emission of dust, fumes, vapors, smoke or odors into the environment from the facility.
4. Medical Marijuana Qualifying Patient Cultivation and Medical Marijuana Designated Caregiver Cultivation.

- a. Qualifying Patients or their Designated Caregivers may be authorized by the Arizona Department of Health Services to cultivate marijuana plants for the qualifying patient's medical use if a registered nonprofit medical marijuana dispensary is not operating within twenty-five (25) miles of the qualifying patient or designated caregiver's home. Such facilities within the City of Cottonwood shall be considered a permitted accessory use in all residential zoning districts provided the primary residence of the qualifying patient or designated caregiver is more than twenty-five (25) miles from an operating medical marijuana dispensary, as per the standards contained herein.
- b. If the qualifying patient or designated caregiver is authorized to cultivate marijuana, there shall be no more than twelve (12) marijuana plants per patient contained in an enclosed, locked facility that permits access by the cardholder, as per the applicable sections of Arizona Revised Statutes and related rules established by DHS.
- c. The cultivation facility may be in a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by the cardholder.

D. FACILITY REGISTRATION REQUIREMENTS. Medical Marijuana Dispensary, Cultivation and Infusion Facilities; and Qualifying Patient or Designated Caregiver Home Grow Cultivation operations shall register the location of the facility with the City of Cottonwood and provide the following information:

1. Registration for Medical Marijuana Dispensary, Cultivation Facility and/or Infusion Facility. A medical marijuana dispensary, cultivation facility or infusion facility, or combined use; is required to register the location with the City of Cottonwood Community Development Department. The following information shall be provided with the registration:
 - a. The name, address, phone number, e-mail address and contact information for the property owner, operator, applicant and non-profit organization operating the facility;
 - b. The name, location, address and contact information for the operator of any off-site cultivation facility or facilities related to the dispensary;
 - c. A written narrative describing the use and facilities and how the location and improvements associated with the proposed facility comply with the requirements of this Ordinance;
 - d. A copy of the operating procedures submitted to and approved by DHS prepared in accordance with A.R.S. § 36-2804(B)(1)(c), including the required security plan for medical marijuana facilities;
 - e. An accurate vicinity map drawn to scale showing the location of the proposed medical marijuana dispensary, cultivation facility or infusion facility in relation to any school property boundary or cultivation and/or infusion facility boundary so as to document the required minimum separation requirement;

- f. An accurate dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses;
 - g. A floor plan of the interior of the facility indicating public areas and secured areas. The floor plan for a dispensary should have a waiting area at the entrance to receive patients and as required by the Arizona Medical Marijuana Act, must have a separate enclosed, locked and secure area for dispensing medical marijuana to qualified patients or designated caregivers. Indicate the principal uses on the floor plan, including areas where non-patients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed, processed, cultivated and stored; and
 - h. An exterior refuse control plan providing for proper disposal of marijuana remnants or byproducts, which shall not be placed within the facility's exterior refuse containers.
2. Registration for Qualifying Patient or Designated Caregiver Home Grow Cultivation. A qualifying patient or designated caregiver authorized by DHS to cultivate medical marijuana at their primary residence shall register the location with the City of Cottonwood and provide the following information:
- a. The name, address, phone number, e-mail address and contact information for the qualifying patient or designated caregiver; and
 - b. A accurate vicinity map drawn to scale showing a twenty-five mile radius from the qualifying patient or designated caregiver cultivation location to ensure there are no registered dispensaries within such area, as per current data available from DHS; Medical marijuana qualifying patient or designated caregiver cultivation are prohibited in all zoning districts if located within 25 miles of a medical marijuana dispensary.

E. OPERATING REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES.

- 1. Consumption of Marijuana. Marijuana in any form shall not be consumed by patients or others on the premises of a medical marijuana dispensary, cultivation facility, infusion facility or any type of medical marijuana facility. Nor shall it be consumed via smoking or vaporization form in any public place within the City. The term "premises" includes the actual building, as well as any accessory structures, outdoor areas, vehicles, parking lot or parking areas which are part of the approved location.
- 2. Retail Sales of Other Products and Services by a Dispensary. The retail sales of marijuana use items and other health care services to registered patients shall be subject to the following limitations:
 - a. Marijuana Paraphernalia. No retail sales of marijuana paraphernalia are permitted at a medical marijuana dispensary, except as permitted by law to qualifying patients and/or designated caregivers.
 - b. Product Display: No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana dispensary so as to be visible from outside the premises.

- c. Other Health Care Services: The dispensary may provide consultation regarding medical marijuana to qualifying patients and designated caregivers as per the rules and regulations established by DHS. The dispensary shall not provide other health care services or products unrelated to medical marijuana as part of the dispensary operations for the general public or qualifying patients.
3. Business Registration. A Medical Marijuana Dispensary, Cultivation Facility or Infusion Facility shall be required to obtain and maintain a valid Business Registration from the City of Cottonwood.
4. Suspension or Revocation of Business Registration. The City of Cottonwood business registration for a medical marijuana use may be suspended or revoked for any of the following violations:
 - a. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business;
 - b. The business registration shall be considered automatically revoked by the revocation, expiration or suspension of any required Conditional Use Permit for the medical marijuana facility and all such operations shall cease immediately.
5. Additional Licenses and Permits. The facility registration and business registration requirement set forth in this Section shall be in addition to, and not in lieu of, any other licensing, permitting or registration requirements imposed by any other federal, state or local jurisdiction, including, but not limited to, DHS approval, building permits, fire alarm permits, zoning approval, a state retail sales and use tax license, a retail food establishment license or any applicable health, safety, building or development license or permit.
6. Infusion (Manufacturing) facilities must obtain any and all permits and licenses from Yavapai County Health Department for all food handling and preparation in connection with infusion operations.
7. Security Plans. Pursuant to the Arizona Medical Marijuana Act, the DHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary shall comply with DHS security requirements provided for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft. All security and alarm systems shall be installed and operated in compliance with applicable City of Cottonwood codes, ordinances, and regulations.

8. Security Lighting. During all night time hours, dispensaries shall illuminate exterior areas of the premises, including related parking areas, sidewalks and building entrances so that all areas are readily visible. During all hours, the medical marijuana dispensary shall illuminate those areas of the interior of the building where the public has access, including the public entry, reception area, and counter area, as well as the interior hallways, other building ingress/egress locations and locations where medical marijuana may be located, stored or processed. All outdoor lighting shall be in compliance with City of Cottonwood Zoning Ordinance, Section 408. Outdoor Lighting Code.

F. FEES.

A facility registration for a medical marijuana facility shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the City Council and filed in the office of the City Clerk. No part of the filing fee shall be refundable.

G. APPEAL

Any registrant for a medical marijuana facility who is dissatisfied or aggrieved by an official decision of the Community Development Director/Zoning Administrator may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of the Community Development Director/Zoning Administrator's decision.

SECTION 309. HILLSIDE DEVELOPMENT STANDARDS

A. PURPOSE.

The purpose of this section is to establish regulations for development of land with steep slopes and hillsides so as to preserve important aspects of the community character while allowing reasonable opportunities for development. Hillside development standards are intended to minimize possible loss of life and property, to protect watersheds and natural waterways, to minimize soil erosion, to protect public infrastructure investments and to encourage the preservation of community character by retaining natural topographic features and minimizing scarring from hillside construction.

B. APPLICABILITY.

The regulations of this Section shall apply to proposed subdivisions, planned area development and development projects on lots or parcels having a natural slope of twenty percent (20%) or greater. This slope is calculated using a minimum run of one hundred feet (100') with a rise greater than twenty feet (20') over that one hundred foot (100') run. Where the standards of this section are in conflict with other provisions of this Code, the more restrictive shall apply. No grading, cutting, filling, excavating, stockpiling or other site earthwork shall be commenced without first obtaining all necessary and required permits and approvals from the City of Cottonwood or applicable agencies, including Grading Permits, Stormwater Permits and approval of required development applications.

C. EXCEPTIONS.

This section shall not apply to the following activities:

1. Individual single-family residential development on existing lots except where part of a planned development or new subdivision.
2. Clearing and thinning of vegetation for fire control as approved by the Fire Chief, Building Official or other applicable City official.

D. ADMINISTRATIVE WAIVER FOR HILLSIDE DEVELOPMENT.

1. Purpose. Administrative waivers are intended to provide flexibility with respect to the numerical standards of the Hillside Development Ordinance where proposed development is compatible with surrounding land uses, shown to be in the public interest and consistent with the purposes of the Zoning Ordinance.
2. Applicability. Pursuant to the requirements of this Section, the Zoning Administrator may authorize a waiver of up to 10 percent from any numerical standard related to the Hillside Development Ordinance, including height, setback, lot coverage, cut and fill quantities, disturbance areas and grading requirements.

3. Application Process.
 - a. Application Submittal. A complete application for an administrative waiver shall be submitted to the Zoning Administrator on a form provided by the City.
 - b. Documentation. Provide copies of the Slope Calculation Analysis for the site along with a complete site plan, photos and other graphic material so as to document the requested adjustment.
 - c. Timeframe. The Zoning Administrator shall have 30 calendar days to approve, approve with conditions or deny the application. A written notification of the decision shall be mailed, or otherwise provided, to the applicant within 15 calendar days from the decision.
4. Notification of Surrounding Property Owners. The Department shall mail notice of the request for the Administrative Waiver to all owners of real property within three hundred (300) feet of the subject property within three (3) business days of submittal of the application and provide at least 10 days for response.
5. Conditions for Approval: The Zoning Administrator may authorize an Administrative Waiver when a literal enforcement of the provision(s) of this Section and all amendments thereof, would result in unnecessary property hardship and when evidence is presented demonstrating to the satisfaction of the Zoning Administrator that all of the following conditions are fulfilled:
 - a. The requested modification will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general;
 - b. The granted Administrative Waiver is the minimum development standard modification that will make possible the reasonable use of the land and/or structure;
 - c. Granting the waiver will be based on the physical constraints and land use specifics, rather than on economic hardship claimed by the applicant; and
 - d. Appropriate and specific conditions as may be deemed necessary in order to fully carry out the intent of the Administrative Waiver section of the Zoning Ordinance have been stipulated by the Zoning Administrator.
6. Appeal. The applicant may appeal any decision of the Zoning Administrator to the Board of Adjustment in accordance with the standards set forth in Section 306, "Appeals and Variances."
7. Revocation. A violation of any condition stipulated by the Zoning Administrator that is not corrected within a specified timeframe shall render the granted Administrative Waiver null and void. An approval shall also be null and void if the use has not commenced or if a grading or building permit has not been obtained for the related work within six (6) months of authorizing the waiver or within any greater or lesser time stipulated by the Administrative Waiver, not to exceed one (1) year.

E. DEFINITIONS.

1. BACKSLOPE – The excavated slope remaining on the uphill portion of a cut section that provides a transition from the natural hillside to the flat portion of a building site or roadbed.
2. CONSTRUCTION ENVELOPE - A specific area defined by the sum of the maximum allowable disturbed area plus the maximum coverage allowed for the lot per parcel.
3. CUT - The land surface which is shaped through the removal of soil, rock, or other materials.
3. DISTURBED AREA - That area of natural ground that has been or is proposed to be altered through grading, cut and fill, removal of natural vegetation, placement of material, trenching, or by any means that causes a change in the undisturbed natural surface of the land or natural vegetation.
4. FILL - The deposit or relocation of soil, rock, or other materials on the site.
5. FINISHED GRADE - The final grade and elevation of the ground surface after grading is completed.
6. GRADE - The slope of a hillside measured as a ratio of horizontal distance or run to vertical distance or rise (measured as percentage.)
7. GRADING - Any excavating, or filling or combination thereof, including the conditions resulting from any excavation or fill.
8. HILLSIDE DEVELOPMENT AREA - Building areas, other than sloped areas within washes and rivers, with a building site slope of twenty percent (20%) or greater, measured as a vertical rise of twenty (20) feet in a horizontal distance of one hundred (100) feet.
9. NATURAL GRADE - The grade and elevation of the ground surface in its natural undisturbed state.
10. NATURAL OPEN SPACE - Areas that are essentially unimproved and left in a natural state without developed structures, roads or similar development but that may contain recreational trails, perimeter fencing or similar minor features.
11. PREVAILING GRADE - The average steepness of a hillside over its entire length.
12. RETAINING WALL - A wall used to retain material but not to support or to provide a foundation or wall for a building.
13. SITE DISTURBANCE ACTIVITY - Any action which results in a cutting of the natural soil grade, creation of an un-natural soil fill or movement of a significant natural landscape feature. Such activity may include, but not be limited to the following activities: digging, trenching, filling, drilling, grading or clearing.

14. SLOPE CALCULATION ANALYSIS - A detailed study of the topography and slope of a development site, parcel or property. The study shall include a detailed graphic showing all slope areas on the site utilizing the methodologies established in this Ordinance and shall be composed of graphic, numerical and narrative information.
15. SPILL SLOPE - Earth or other material that is pushed or allowed to fall, flow or run down a slope as a result of excavation activities or natural process of erosion so as to change the natural appearance and topography of the site.

F. APPLICATION REQUIREMENTS.

1. Slope Calculation Analysis: Provide a Slope Calculation Analysis and related Map where the property contains slopes 20% or greater, as defined by this Ordinance.
2. Grading and Drainage Plan: An overall excavation, grading and drainage plan shall be prepared in accordance with sound professional engineering practices and to address minimum standards adopted by the City. Said plans shall be prepared and certified by a professional engineer registered in the State of Arizona. If any drainage structures or culverts are involved, it will be necessary to include calculations for peak flows for a 100 year storm to establish appropriate drainage facilities, cross-sections and details. Where feasible, storm water diverted from its original drainage pattern shall be returned to its natural course before leaving the property.
3. Hillside Development Site Plan. Detailed development site plans and landscape plans shall be submitted with each hillside development application and shall include, but not be limited to, the following:
 - a. Submit site plan on 24" by 36" sheet. Site plan must be submitted with a topographic survey prepared by a civil engineer or registered land surveyor. Scale of the site plan shall be not less than 1"= 20'-0".
 - b. Show topographic contours at two (2) foot intervals. Five (5) intervals may be allowed for very steep slopes if approved by the City Engineer. Indicate existing contours with dashed lines.
 - c. This map shall show limits of excavation and fill, slope of cut and fill, and total cubic yards of excavation and fill for the building site, roads, and driveways. Show the location, length and height of retaining walls, fences and other attachments;
 - d. For disturbed (or graded) areas, including removal of natural vegetation, show the proposed method of final treatment, including riprap, concrete, groundcover, or vegetative coverings.
 - e. Show how drainage is altered, and if so, how it is redirected to original channel and show that the requirements regarding storm water runoff and drainage have been met. Show the location and grade of all drainage channels, swales, drain pipes, culverts, and similar drainage features. Indicate flood zones on site plan with grade or elevation of each level.

- f. Show cross sections at two (2) or more locations perpendicular to the contours through each building or structure giving percentage of slope at each, and showing exact heights of structures at each existing contour.. Location of the cross-sections shall be clearly shown on the topographic map.
 - g. For proposed driveways, indicate total average grade from lowest point to highest and show grade of steepest portions of driveway within fifty (50) foot sections.
 - h. Show location of all proposed utility lines, or septic tank or sewage disposal areas.
 - i. Provide address or property location information, property dimensions and name, address, telephone number and contact information for applicants, property owners and preparer of application materials.
4. Data Table. Provide a table on the plan which provides the following information:
- a. Gross area of lot shown in square feet.
 - b. Area of lot that is hillside in square feet. Indicate slope category. If separate areas are shown, break out the areas by size in square feet and slope category.
 - c. Area of hillside on lot that has been previously disturbed in square feet, if applicable.
 - d. Area of hillside on lot that is proposed to be disturbed shown in square feet. Indicate separate areas, if applicable.
5. The Community Development Director, or designee, may require an accurate three dimensional rendering; showing the existing and proposed finished appearance of the site. A computer generated model in a three dimensional format is acceptable.
6. Prior to the commencement of any construction or development activity on the hillside site, including clearing, grading, excavating or movement of any material, all applicable required plans and approvals shall be issued by the City.

G. SLOPE CALCULATION ANALYSIS.

- 1. All applications for development shall include a Slope Calculation Analysis when portions of the property contain slopes 20% or greater, as defined by this Ordinance.
- 2. The information submitted shall clearly indicate the extent and nature of the work proposed, including the area of disturbance, the estimated quantity of cut and fill, and other information as required to review the proposed activity.
- 3. Applicants may prepare a Slope Calculation Analysis utilizing a methodology differing from those outlined in this Section. Applicants seeking to utilize an alternative methodology shall provide both a written explanation of the proposed alternative methodology and a graphical example of its use.

4. A Slope Calculation Map shall be produced for the review slope categories as applies to the hillside development standards. The slope map shall contain information necessary to determine compliance with this Section. To determine the location and extent of slope categories, carry out one of the following procedures:
 - a. Manual Slope Calculation Method:
 - 1) Utilize a topographic map at a scale of twenty (20) feet or less to the inch and with contours shown at two (2) foot intervals. All contour lines shall be extended onto adjacent properties to a distance that establishes the overall slope of the land but in no case shall they be extended less than twenty (20) feet onto the adjacent properties.
 - 2) The slope category shall commence at the midpoint of the one hundred (100) foot horizontal dimensions used to determine the slope. The one hundred (100) foot slope determination lines shall be located perpendicular to the site or property contour bands. Those properties containing multiple slope planes should provide slope information for all such planes.
 - 3) To determine those locations where slopes of twenty percent (20%), thirty percent (30%), and forty percent (40%) begin by the application of one hundred (100) foot straight lines that fall within each category. The one hundred (100) foot slope determination lines shall be extended onto adjacent properties to a distance that establishes the overall slope of the land but in no case shall they be extended less than twenty (20) feet onto the adjacent properties.
 - 4) Connect the midpoints of each series of one hundred (100) foot lines of the same slope category to establish the limits of that slope category.
 - 5) Measure the areas resulting between each series of straight lines to determine the areas in each slope category.
 - b. Computer Generated Slope Calculation Method:
 - 1) Utilize digital topographic information with contours shown at two (2) foot intervals.
 - 2) Utilizing a slope generating software application, slope categories shall be determined utilizing the slope categories identified in this Ordinance.
 - 3) Computer generated slope analyses shall be prepared utilizing the following modeling parameters:
 - (a) Maximum five (5) foot slope contour intervals for slopes more than thirty percent (30%);
 - (b) The slope analysis shall utilize the above noted slope contour intervals through the modeling basis of grid evaluation to determine slope facets or contours; and,

- (c) The analysis shall utilize a twenty-five (25) foot grid system.
- 4) All data generated through the use of a computer generated slope determination shall be presented in both chart and graphic formats. The presentation of all graphic slope information shall be presented in a clear and easily understandable format.
- 5) The final map shall be plotted at a maximum scale of 1" = 200' and submitted to the Community Development Director or designee for review. If the Community Development Director or designee finds the analysis acceptable, the final slope determination map shall be approved.
- 6) The Community Development Director or designee may reject the analysis and require correction(s) to the digitized slope category lines to more accurately reflect the generalized slope conditions of the property or other revisions necessary to ensure compliance with this Section.

H. SLOPE DEVELOPMENT.

- 1. Maximum Site Disturbance: Maximum site disturbance), as used in this Section, shall include all grading, excavation and fill area for the development of the property but shall not include any public or private street or the building coverage in the calculation.

<u>Slope Category</u>	<u>Maximum Allowable Disturbance Area as per Slope Category Map</u>
0% to 19.9%	As per underlying Zoning.
20% to 29.9%	30%
30% - 39.9%	50%
40% & >	No Disturbance, except as permitted by this Ordinance.

- 2. Residential Density: The maximum density for residential development within specified slope category areas shall be determined by the following:
 - a. For any portion of land containing slopes below 20%, the maximum density is determined by dividing the gross area of the tract of land below the 20% slope line by the minimum lot size specified in the underlying zoning district/s.
 - b. For any portion of land containing slopes from 20% up to 29.9%, the maximum density is 0.70 of the density determined by dividing the gross area of the tract of land between the 20% and 29.9% slope lines by the minimum lot size specified in the underlying zoning district/s.
 - c. For any portion of land containing slopes from 30% up to 39.9%, the maximum density is 0.50 of the density determined by dividing the gross area of the tract of land between the 30% and 39.9%, slope lines by the minimum lot size specified in the underlying zoning district/s.

- d. For any portion of land containing slopes 40% and greater, the maximum density is determined as 0.25 of the density determined by dividing the gross area of the tract of land at or above the 40% slope line by the minimum lot size specified in the underlying zoning district/s.
3. Hillside Residential Density Bonus: For properties where the maximum density for residential development is limited as established in this Section for development in slope category areas at or above 20%, the net difference with a potential density bonus increase in the allowable number of dwelling units may be transferred to other portions of the same or contiguous development property where such areas are shown as below the 20% slope category level. For transfer of residential density to zoning districts other than PAD Zone, development shall otherwise meet all standards of this Ordinance and shall not exceed more than 125% of the density otherwise allowed in that Zoning District. Transfer of residential density for projects with PAD Zoning shall be subject to the standard review and criteria for Planned Area Development as determined through the Master Development Plan.
4. All such development qualified for transfer of residential density shall be subject to standards as specified in this Ordinance and the following:
 - a. In addition to other residential use types allowable in the underlying zoning district, transferred density rights may be developed as detached single-family residential units or as attached residential units with townhouse or clustered type design.
 - b. Proposed clustered unit developments located within a 20% or greater slope category shall be subject to the processing of a Planned Area Development (PAD) application and approval at the sole discretion of the City Council.
 - c. Aspects for consideration of a density transfer design may include but are not limited to:
 - 1) Locations and distribution of any attached or clustered housing.
 - 2) The condition of buffering or separation between proposed housing and the abutting properties.
 - 3) The overall variety of housing types, sizes, lot sizes.
 - 4) The amount and quality of natural open space or usable landscaped areas that are contained within the proposed transfer area.
 - d. For all areas of the lot or parcel with less than a 20 percent slope, 100 percent site disturbance may occur where densities are being transferred from higher slope areas.

5. The following criteria shall be applied for review of proposed clustered development:
 - a. Minimizes the disturbance to the terrain, avoiding cuts or fills unless they are necessary.
 - b. Preserves and incorporates natural features and vegetation, preserves significant large trees or landscape specimens, preserves rock formations.
 - c. Mitigates visual impacts by keeping structures below ridgelines, stepping structures with the slope, and minimizing the height of structures.
 - d. Building and structure design is compatible with hillside characteristics using natural materials and colors, and variation with roof and wall components;

I. HILLSIDE DESIGN CRITERIA.

1. Mass Grading Standards. Leveling of large development sites through mass grading shall be discouraged even for areas with less the 20% slope. Careful design of site grading to allow stepping of areas within larger development sites is preferred so as to preserve natural slopes, vegetation and similar features.
2. Construction Envelope. All lots 20,000 square feet or more in net area shall establish a construction envelope equal to the combined area of the maximum disturbed area and maximum lot coverage as described in this Section.
3. Spill Slopes. Spill slopes greater in depth than five (5) feet shall be prohibited for development sites, driveways and streets. All such surplus material shall be removed from the site or disposed of on-site as permitted by this Ordinance.
4. Removal or disposal of excess material. All excavated material shall be removed from lots and roadways or contained behind retaining walls or landscaped so that the slopes of any fill material will not be visible.
5. Cuts and Fills. Stabilization is required for all cut and fill slopes of five (5) feet or greater in elevation. To reduce visual impacts of cut and fill slopes they should be rounded or tapered where they meet natural grade so that they blend with the natural slope.
 - a. Building pad: The maximum height of any cut or fill used to establish a building site shall not exceed twelve (12) feet. For cuts greater in height stepping shall be required with at least four (4) foot steps to allow landscaping.
 - b. Street: The maximum height of any cut or fill used to establish a road shall not exceed 12 feet. For cuts greater in height stepping shall be required with at least four (4) foot steps to allow landscaping. All building sites, driveways and roadway cut and fill slopes shall be re-vegetated with native plant material.
 - c. Driveway: Any driveway cut greater than eight (8) feet in depth shall not have a length greater than one hundred (100) feet; and the maximum height of any cut or fill used to establish a driveway shall not exceed twelve (12) feet.

- d. Grade of backslope, cuts and fills: The grade for resulting slopes shall be a maximum 2:1, or greater if determined necessary by engineering analysis to ensure a sustainable slope. A combination of retaining walls and slopes may also be considered.
 - e. Partial bench construction: Where a grading plan proposes a combination of cuts and fills to create a level area for a building, road, driveway or development site due to constraints of the property, a detailed treatment plan shall be required for the cut and fill sections to ensure adequate compaction of the fill material and a minimum 2:1 backslope grade so as to maintain a stable slope. Any fill material shall be carefully blended with the prevailing natural grade of the hillside and landscaping shall be provided as necessary to minimize the visual effects of any spill slope.
 - f. Setbacks: Both the top of cut slope and toe of slope shall be setback at least 10 feet from any property line or greater if required by building codes. Exceptions may be considered where the existing topography or drainage patterns are such that strict adherence to this standard would result in a less desirable condition for abutting properties. In such cases a recorded slope or drainage easement shall be provided for the applicable portions of the abutting property.
 - g. Alternative cut and fill limitations and methods to mitigate the visual impact of cut and spill slopes such as terracing, use of retaining walls and re-vegetation of disturbed areas may be submitted based on a finding that the proposed alternative limitations and methods meet the intent of this Section to reduce the visual impact of cut and spill slopes and are otherwise in compliance with this Ordinance. All such alternative proposals shall be subject to Design Review approval.
6. Retaining walls: The intent of retaining wall standards is to reduce the visual impact of retaining methods used on hillside developments. Specific criteria for design include the following:
- a. Fill slopes greater than two (2) feet in depth may be contained by a retaining wall as provided by this Ordinance. Retaining walls may be used to retain fill where slopes cannot be stabilized by the application of boulders, vegetation or the underlying native rock.
 - b. Residential retaining walls shall not exceed six (6) feet in height; non-residential retaining walls shall not exceed eight (8) feet in height. Where additional height is required, a series of stepped retaining walls may be used where such walls are offset at least four (4) feet horizontally. The area between stepped retaining walls shall be improved with landscaping, as per Section 407. Landscaping Requirements.
 - c. Decorative view fences, not exceeding 6 (six) feet in height above the highest part of adjacent natural grade may be added to a retaining wall. View fences may include wrought iron, wood picket or a combination of wrought iron and masonry columns but shall not include chain link for such applications.
 - d. The location and layout of retaining walls shall be designed to compliment the shape of the natural terrain to the greatest extent possible through the use of stepped or offset

sections both in elevation and plan view. Retaining walls shall be designed to preserve attractive areas of existing desert vegetation where possible.

- e. If retaining walls are constructed of block or finished with stucco, they should be colored to blend with surrounding landscape or to be compatible with the development theme of the project. Rock facing on masonry walls is encouraged and the use of rock walls comprised of native materials where structurally appropriate is also encouraged.
7. Driveways: The design of driveways located within development projects shall meet the following standards:
- a. Driveways in hillside development areas (20% or greater slopes) shall be limited to one per residence. A driveway may be used to serve more than one residence where in compliance with applicable codes.
 - b. Driveways with 10% grade or greater shall be paved with asphalt, concrete, pavers or a comparable hardened surface so as to stabilize slopes and minimize erosion and sedimentation.
 - c. Driveways with 10% grade or greater shall have a 20 foot minimum landing area at intersection with maximum 6% grade so as to allow safe transition to street.
 - d. Driveways with 15% or greater grade shall be constructed of concrete with appropriate surface treatment to provide adequate friction for vehicles.
 - e. Where a driveway crosses a wash or drainageway, it shall not impede or adversely alter drainage. Wash crossings shall be stabilized to minimize maintenance. Where necessary to accommodate regular run-off or flooding, appropriately sized and designed culverts or bridging shall be required. For low-flow or local drainage swales, concrete aprons on each side of the driveway may be approved to accommodate the cross flow.
 - f. Drainage culverts: Where driveways cross drainage ditches and channels beside the roadway, culvert pipes shall be sized to meet all applicable engineering requirements but in no case shall be less than 12” in size for pipes up to 16 feet in length and minimum 24” for pipes greater than 16 feet in length. A uniform size of culvert pipe shall be established for similar drainage crossings to lots accessed across the same channel along the same roadway.
 - g. The applicant shall provide engineered plans, prepared by a registered civil engineer, licensed in the State of Arizona, for all driveways that have grades more than ten (10) percent to ensure compliance with the design criteria.
8. Street Design: Both public and private streets proposed for new development shall conform to the following standards for hillside development:
- a. Street grade shall be designed to take advantage of the natural topography of the landscape through such techniques as following the natural contours across hillsides.

- b. All cut and fill slopes associated with new streets shall be within the roadway right-of-way or roadway easement. Slope maintenance easements for roadway cuts and fills shall be required where such disturbance extends onto private property.
- c. Street grades shall typically not exceed 6%, except where there are exceptional circumstances of the natural topography that would otherwise limit locating the new street in a conforming manner then individual sections up to 10% percent grade may be considered for a maximum length of five-hundred (500) feet. Exceptions for new streets may be approved by the City Engineer if there are no reasonable alternatives and the proposed street is in compliance with all other applicable codes and ordinances and is approved by fire, police and public safety agencies for emergency access.

SECTION 310. HISTORIC PRESERVATION ORDINANCE

A. PURPOSE

The purpose of this Section is to further the preservation, protection, enhancement, rehabilitation and perpetuation of historic properties, structures, sites, landmarks, and historic districts, as necessary to promote the economic, cultural, educational, and aesthetic values of

the community and the health, safety and general welfare of the public. In addition, the Historic Preservation Ordinance shall have the following purposes:

1. Protect and enhance the landmarks and historic districts which represent distinctive elements of Cottonwood's historic, architectural, economic, social and cultural heritage.
2. Protect and enhance Cottonwood's attractiveness to visitors, tourists, and residents and serve as an important support and stimulus to business and industry.
3. Stabilize and/or improve property values, and protect existing investment involving the restoration and preservation of historic resources.
4. Encourage maintenance and preservation of structures so as to protect the health, safety and lives of people in Cottonwood.
5. Promote the use of historic design review districts and landmarks for the education, pleasure, and welfare of the residents of Cottonwood.
6. Further the Goals and Policies of the City's General Plan.

B. DEFINITIONS

Unless specifically defined below or elsewhere in the Zoning Ordinance, words or phrases in this Section shall be interpreted so as to give them the same meaning they have in common usage and so as to give this ordinance its most reasonable application.

ALTERATION - Any act or process that changes one or more of the existing features of a structure, including, but not limited to exterior changes or modifications of a structure or any of its architectural details or visual characteristics, including paint color and surface texture, facade materials, surface paving, landscape features, and placement or removal of signs, plaques, light fixtures, walls, fences, and street furniture.

CERTIFICATE OF APPROPRIATENESS - A certificate issued by the Historic Preservation Commission indicating its approval of plans for alteration, restoration, reconstruction, demolition or removal, of a historic landmark; or for alteration, new construction, removal, or demolition of non-historic structures within a historic district.

COMMISSION - Refers to City of Cottonwood Historic Preservation Commission.

CONSTRUCTION - The act of building an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

CONTRIBUTING PROPERTY - A classification applied to a building site, structure or object within a historic district or landmark property signifying that it contributes to the defining characteristics of the historic district or landmark.

DEMOLITION - Any act or process that destroys and removes a structure in part or in whole.

HISTORIC DISTRICT - A designated area that contains at least one or more landmarks within definable geographic boundaries, where a majority of structures are indicated as significant, and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance or age to be designated as landmarks, nevertheless contribute to the overall quality and character of the district. The historic district shall be officially recognized as such by state and federal agencies.

HISTORIC PRESERVATION DISTRICT – A special overlay zoning district designated by ordinance of the City Council that includes regulations pertaining to historic preservation which modify the regulations of the underlying zoning district. May be applied to an individual property or a group of properties where a majority of properties are indicated as historically significant.

HISTORIC SITE, HISTORIC STRUCTURE, OR HISTORIC PROPERTY - A site, structure or property which has historic and/or architectural significance, and is at least fifty (50) years old from the date of construction; and which contributes to the historic, architectural, cultural, archaeological or other significant value as part of the heritage or history of the City, the State of Arizona, or the nation.

INTEGRITY - A measure of the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period in comparison with its unaltered state.

LANDMARK - A designation, as a result of processes provided in this Section, applied by the Commission to an individual property, structure, site or object, or group of properties, which has a historic value or expresses a distinctive character worthy of preservation.

MANAGER - Refers to the City of Cottonwood Community Development Manager.

MINOR ACTIVITY – Any change, modification, restoration, rehabilitation, or renovation of the features of a historic resource that does not materially change the historic characteristics of the property and is consistent with the criteria for the historic preservation district or landmark.

NATIONAL REGISTER OF HISTORIC PLACES - A listing of buildings, sites, and objects designated for historical, architectural or other special significance, as determined by established criteria, and which listing is maintained by the National Park Service under the National Historic Preservation Act of 1966, as amended. The program is administered by the State Historic Preservation Office at the state level.

NON-CONTRIBUTING PROPERTY - A classification applied to a property, site, structure or object within a historic district or as associated with a historic landmark property signifying that it does not contribute to the defining characteristics of the historic district or landmark property.

OBJECT – A material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment. This term may include landscape features.

PRESERVATION - The act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

RECONSTRUCTION - The act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

REMOVAL - Any relocation of a structure or portion of a structure on its site or to another site.

REPAIR - Any restoration of a structure by replacing or fixing broken or deteriorated elements, which is not considered to be construction, removal or alteration.

REHABILITATION - The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

RESTORATION - The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

SITE - The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure. A site may encompass more than one lot or parcel.

STABILIZATION - The act or process of applying measures designed to re-establish a weather resistant enclosure and the structural stability of unsafe or deteriorated property while maintaining the essential form as it exists at present.

STRUCTURE - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to, buildings, fences, walls, signs, bridges, utility facilities, communication towers, and recreational facilities.

C. HISTORIC PRESERVATION WAIVER.

For properties proposed for inclusion within a Historic Preservation Overlay Zoning District or designated as a Historic Landmark by the City of Cottonwood, the following procedures shall be available for affected property owners. Such procedures shall be available for affected property owners for up to three (3) years from the date of adoption of an ordinance for Historic Preservation Overlay Zoning or designation of Historic Landmarks.

1. Council Authority to Remove Property from a Proposed Designation. The City Council shall not include any property within a proposed Historic Preservation Overlay Zoning District or a proposed Historic Landmark when the owner has objected in writing or at a public hearing to such a designation, and may remove any property from a proposed designation if the owner of record has not responded to a request for comments on the proposed rezoning and designation as a Historic District or Historic Landmark. The City intends that these designations be voluntary and acceptable to affected property owners.
2. Procedure to Remove Property from District or Landmark Designation. An application for removal from a Historic Preservation Overlay District or Historic Landmark designation shall be submitted by the owner or agent of the subject property and involves the following steps:
 - a. Preliminary consultation. Prior to the submittal of an application for a landmark designation, the applicant should consult with the Manager or designee to discuss the application submittal requirements and process.
 - b. Application submittal requirements. An application for a landmark designation shall contain at a minimum the following:
 - 1) Completed and signed application forms that include the property owner's signature.
 - 2) Address, parcels number and other location information as needed to describe the property.
 - c. Upon receipt of an application for removal from the Historic Preservation Overlay District or Historic Landmark designation, the HPC Commission will make the initial decision about removal in consultation with the Manager and City Attorney, subject to appeal to the City Council.

D. INCENTIVES.

It is the intent of the city to make ownership of a landmark or contributing property within a historic district as beneficial as possible. In addition to the intangible benefits of owning a property recognized as an important community resource, the Commission may, when applicable and possible, provide such owners with one or more of the following:

1. Recommendation to the Community Development Department, Planning Commission and/or City Council that a new use other than the historic use be considered for a historic property where the applicants are able to demonstrate that the proposed use will assist in furthering the goals of historic preservation for that property and the surrounding district.
2. Provide information regarding potential sources of financial assistance and tax credits.
3. Provide support and endorsement for grant applications that further the goals of historic preservation.

4. Provide or direct applicants to available resources and technical information regarding construction, rehabilitation and repair of historic resources.
5. Provide information to community organizations, property owners, residents, businesses and others regarding proposed activities within historic districts; and
6. Provide information regarding any other benefits that may become available.

E. COTTONWOOD HISTORIC PROPERTY REGISTER.

A Cottonwood Historic Property Register is hereby established for the purpose of listing and defining historic districts and landmarks to be designated under the provisions of this Section. This Register may be periodically amended by the Commission and shall be held available for public reference and historical study.

F. HISTORIC LANDMARK DESIGNATION PROCESS.

1. The Commission may designate as a landmark an entire property, an identified portion of a property, or one or more individual structures on a property.
2. Application Submittal and Review. An application for a landmark designation shall be submitted by the owner or agent of the subject property and involves the following steps:
 - a. Preliminary consultation. Prior to the submittal of an application for a landmark designation, the applicant should consult with the Manager or designee to discuss the application submittal requirements and process.
 - b. Application submittal requirements. An application for a landmark designation shall contain at a minimum the following:
 - 1) Completed and signed application forms that include the property owner's signature.
 - 2) Address, parcels number and other location information as needed to describe the property.
 - 3) The applicant shall provide a written description of the proposed landmark property describing the buildings, structures or objects and the known or estimated age of all such features. If available, include information on any special aesthetic, cultural, architectural, archaeological or engineering issues of a historic nature, including information about the architecture, notable construction features and other information indicating the historical significance of the property.
 - 4) The application may include any photographs, sketches, drawings, or other similar descriptive materials, including those showing historic or current conditions.

- 5) A written statement of the condition of the property and/or structures with attention to any known concerns or threats to the maintenance or historic integrity of the property.
 - 6) Filing fee as set by City Council.
 - 7) Other information as may be requested by the City to accomplish these goals.
- c. Incomplete applications. Incomplete applications may be returned to the applicant and/or not be processed until all materials have been submitted. Following acceptance of a complete application, the staff shall review the application and prepare a report which shall be submitted to the Commission and made available to the applicant and public in advance of the Commission's public hearing on the landmark application.
 - d. Application acceptance. Upon acceptance of a complete application, no building or demolition activity shall occur and no permits affecting the proposed landmark shall be issued by the city until the process as described herein has been completed and the Commission has made its decision.
3. Notice of Commission Hearing.
 - a. Within 60 days of receipt of a complete application for a landmark designation, the application shall be placed on the HPC agenda for a public hearing. Public notice of this hearing shall be given as prescribed by this Ordinance. The city shall give notice of the date, time, and place of a public hearing for consideration of a proposed landmark, including general explanation of the matter to be considered and a general description of the area affected at least 15 days before the hearing in the following manner:
 - 1) Publication at least once in a newspaper of general circulation in the city.
 - 2) In addition to notice by the means set forth above, the city may give notice of the hearing in a specific case in such other manner as it deems necessary or appropriate.
 - 3) As provided in A.R.S. § 9-462.04.A (7), or any successor statute, the failure of any person or entity to receive notice shall be as set forth in the statute or in A.R.S. § 9-400.05 15-10.
4. Landmark Designation Criteria. The Commission shall evaluate each structure, site, building or property within an area that is included in an application and may designate it as a landmark if it is determined to possess integrity of historic appearance, location, design, setting, materials, workmanship, feeling and association; and, being at least 50 years old or having achieved significance within the past 50 years if the property is of exceptional importance; and exhibits one or more of the following characteristics:
 - a. Association with events or activities that made significant contributions to the broad patterns of local, regional or national history;

- b. Association with the lives of persons significant in the past;
 - c. Embodiment of distinctive characteristics of a type, period or method of construction, or representing significant architectural history, landscape history, or engineering achievements, or high artistic values or representing a significant and distinguishable entity whose components may lack individual distinctiveness; or
 - d. Information important in the understanding of the pre-history or history of our community; potential to yield information through archeological investigation about our past.
5. Commission Public Hearing and Designation.
- a. The Historic Preservation Commission shall hold at least one (1) public hearing on each landmark application. At the public hearing, the Commission shall review the proposal with consideration given to the review criteria. Approval, conditional approval or denial of a landmark application shall be based on the findings of the Commission as they relate to the criteria as described in this Section.
 - b. The Commission's decision shall be final unless appealed to the City Council as provided for in this Ordinance. A recommendation for approval may be subject to conditions as the Commission deems applicable.
6. Six month bar on refilling. If the Commission denies an application, the Commission may refuse to accept another application for the same or substantially the same landmark on the same property or any part of it within six (6) months from the date the original application was filed on the same property or a portion of it.
7. Effect of Landmark Designation.
- a. Upon approval of a landmark designation, the affected property shall be included in the Historic Property Register for the City of Cottonwood and on any other applicable documents as appropriate for its preservation.
 - b. No person shall carry out any exterior alteration, restoration, renovation, reconstruction, new construction, demolition or removal, in whole or in part, on any landmark, without first obtaining a Certificate of Appropriateness from the Commission.
 - c. No person shall make any material change in the exterior appearance of any landmark, its color, materials, light fixtures, signs, fences, steps or other elements which affect the appearance of the property without first obtaining a Certificate of Appropriateness.
 - d. Each property designated as a landmark shall be maintained in good condition and faithful to its historic character.
 - e. Nothing in this article shall be construed to prevent normal maintenance and repair, which does not involve change in the exterior design, material, color or appearance.

G. HISTORIC PRESERVATION DISTRICT DESIGNATION PROCESS.

1. General Regulations.

- a. A rezoning approval is required in order to receive a Historic Preservation (HP) Overlay District designation. The process for such is set forth in Article III. Section 301 of this Ordinance.
- b. The HP Overlay District is an overlay zoning designation as described in the Cottonwood Zoning Ordinance in which all uses of the underlying zoning district are maintained but which includes specific criteria and standards for development and rehabilitation that relate to historic preservation. The underlying zoning which describes the allowable land uses continues in effect.
- c. The overlay zoning designation may be applied to any zoning district where determined as appropriate by the City Council.
- d. The boundary of a proposed HP zoning designation can only be applied to a single property or a collection of properties where such property or properties have been designated as a historic landmark according to the procedures in this Ordinance.
- e. The Historic Preservation Commission shall administer the regulations as they relate to the historic preservation overlay district designation. In cases where the historic preservation regulations are in conflict with other zoning regulations, the Historic Preservation Ordinance shall take precedence in terms of design review criteria and approval process.
- f. The Historic Preservation Commission, the Planning and Zoning Commission, City Council, the Community Development Manager, or a property owner or their agent within the subject area may initiate a request to rezone with a Historic Preservation Overlay District. All other procedures for a change of zoning apply.

2. Application Submittal Requirements.

- a. Schedule of Public Hearings. Public hearings on the request for the overlay zoning designation shall be held by the Historic Preservation Commission, Planning and Zoning Commission and City Council. A tentative schedule of all meetings shall be included with initial public notification.
- b. Preliminary Staff Meeting. At the request of a property owner or their representatives a preliminary informal consultation with the Community Development Manager or designee may be scheduled to review the rezoning process and application submittal requirements.

- c. Code Review: All applications for the Historic Preservation Overlay District designation shall be reviewed by the Code Review Board.
 - d. Application submittal requirements: In addition to the submittal requirements set forth in Section 301., “Amendments or Zone Changes,” all Historic Preservation Overlay District rezoning applications shall include the following:
 - 1) A vicinity ownership map showing all parcels adjacent to and surrounding the proposed designated property or district within a radius of at least 300 feet from the boundaries of the proposed district;
 - 2) A list of all properties within the proposed district and with 300 feet identified by parcel number and address along to include property owners with current mailing addresses;
 - 3) Written description of the proposed Historic Preservation Overlay District. The description of the district shall include the boundaries of the proposed district, the known or approximate construction dates of buildings and structures in the area, special aesthetic features, cultural, architectural, archaeological or engineering interest or value of a historic nature, including information about the architecture, notable construction features, and other information indicating the historical significance;
 - 4) Describe prospective contributing properties and how they each meet one or more of the criteria for Historic Districts as described by the National Park Service for listing on the National Register of Historic Places; or locations, dates of construction, and a statement of the general condition of each structure;
 - 5) Current photographs of each building or structure and any significant defining elements. Provide photographs in electronic format as per national standards for documentation; and
 - 6) Explanation of any known threats or concerns to the historic integrity of any property or structures included.
3. Notice of Public Hearing. Notice of public hearings shall be the same as set forth in Section 301 as relates to the change of zoning request. In addition, the public notification requirements shall include the following:
- a. Notice of the public hearing and information on the proposed historic district and rezoning sent by first class mail to all property owners with the proposed district;
 - b. Notice posted in at least three conspicuous places within or near the proposed historic district boundaries;
 - c. Notice published in the local newspaper of record as required and at least 2 times prior to the meeting; and

- d. Notification shall be provided to businesses, commercial lessees and residents within the proposed historic district to the extent possible through known sources, including mailings, postings or direct delivery.
4. Historic Preservation Overlay District Criteria. Each structure, site, building or property within an area that is included in a Historic Preservation District rezoning application will be evaluated using the following criteria to determine if it has historical or other cultural significance or integrity, and is suitable for preservation:
 - a. The Overlay District consists of one or more properties which individually or as a group include a substantial concentration of properties, buildings or structures which individually meet the criteria of this section and which contribute generally to the distinctive character of the area, and are united historically or visually in a coherent manner.
 - b. Being at least 50 years old, or having achieved significance within the past 50 years if the property is of exceptional importance.
 - c. Possessing integrity of location, design, setting, materials, workmanship, feeling or association.
 - d. Association with events that have made significant contributions to the broad patterns of our history.
 - e. Association with the lives of persons significant in our past.
 - f. Embodiment of distinctive characteristics of a type, period or method of construction, or representing the work of a master, or high artistic values or representing a significant and distinguishable entity whose components may lack individual distinctions.
 - g. Yielding information important in the understanding of the pre-history or history of the community.
 - h. The District boundaries coincide with documented historic boundaries, such as property lines, roads or subdivision plats; and other logical recognized neighborhood or area boundaries.
 - i. Any non-contributing properties or vacant parcels are included only where necessary to create appropriate boundaries.
 5. Adoption of Historic Preservation Overlay Zoning District.
 - a. Action by the Historic Preservation Commission: Upon completing its public hearing on the Historic Preservation Overlay District zoning application, the Historic Preservation Commission shall transmit its recommendation to the Planning and Zoning Commission. The recommendation from the Historic Preservation Commission shall include the following:

- 1) A map showing the proposed boundaries of the Historic Preservation Overlay District and identifying all structures within the boundaries, including classification as contributing or noncontributing;
 - 2) An explanation of the significance of the proposed overlay district and description of the cultural resources within the proposed boundaries;
 - 3) Proposed design guidelines or a preliminary summary of design review issues specific to the area that apply to the criteria for review for a Certificate of Appropriateness, include a review of architectural styles, a description of the major periods of influence on development within the district, and discussion regarding the effect of context in the decision making process;
 - 4) The recommendations of the Historic Preservation Commission may include additional conditions and/or modifications to the proposed district property boundaries as deemed necessary to promote the purpose of the District; and
 - 5) Findings of fact shall be included for all such recommendations of the Historic Preservation Commission.
- b. Action by the Planning and Zoning Commission. The Planning and Zoning Commission shall hold a public hearing to consider the proposed overlay zoning subject to all standard requirements for a change of zoning with consideration of the Historic Preservation Commission's recommendations. Following the conclusion of its public hearing, the Planning and Zoning Commission shall transmit its recommendation to City Council.
 - c. Action by the City Council. The City Council shall hold a public hearing on the proposed overlay zoning. The Council may approve the Historic Preservation Overlay District as recommended or in a modified form, stipulating those conditions it deems necessary to carry out the purpose of this district and this ordinance.
 - d. Approval. The ordinance approving a Historic Preservation Overlay District may include specific and unique standards for that district, including reference to design guidelines or other documents developed to meet the needs of that overlay district.
6. Revisions. Based on any conditions recommended by the Historic Preservation Commission or Planning and Zoning Commission, the applicant may provide minor revisions to their application submittal prior to the City Council hearing. All such revisions shall be documented in written format with a description of such changes. Major revisions to the plans shall be required to be resubmitted to the Historic Preservation Commission for review.
 7. Effect of Historic Preservation Overlay District Designation.
 - a. Upon approval of a Historic Preservation Overlay District designation by the City Council, the affected properties shall be included in the Cottonwood Historic Property Register and on any other applicable City documents as appropriate for its

preservation. The city's zoning map shall be updated to reflect the new overlay zoning district boundaries. The city's parcel information database shall be updated to include those properties identified within the overlay district.

- b. No person shall carry out any exterior alteration, restoration, renovation, reconstruction, new construction, demolition or removal, in whole or in part, without first obtaining a Certificate of Appropriateness from the Commission.
- c. No person shall make any material change in the exterior appearance of a designated property, its color, materials, light fixtures, signs, sidewalks, fences, steps, paving or other elements which affect the appearance of the property without first obtaining a Certificate of Appropriateness.
- d. Criteria may be established to determine work that may be approved administratively.
- e. Each property designated as a contributing property shall be maintained in good condition and faithful to its historic character.
- f. Nothing in this article shall be construed to prevent normal maintenance and repair which does not involve change in exterior design, material, color or appearance.
- g. In addition to any other required review and/or approval, any proposed construction within a historic preservation overlay district shall also be subject to Commission review according to any design guidelines which may have been applied to that district or any other applicable criteria adopted for such purposes.

H. DEVELOPMENT PROCEDURES FOR LANDMARKS AND HISTORIC DISTRICTS.

- 1. Applicability. The provisions of this Section shall apply to Historic Landmarks and to properties within a Historic Preservation Overlay District.
- 2. Alteration of Historic Resources:
 - a. No building, permanent sign, or other structure in a Historic Preservation District or part of a designated Historic Landmark shall be erected, demolished, moved, restored, rehabilitated, reconstructed, altered, or changed in exterior appearance, nor shall any historic resource be altered, moved, remodeled, demolished, enlarged or extended contrary to the district or landmark until plans for such activities have been submitted to and approved by the Historic Preservation Commission or as permitted administratively, and the City has issued a Certificate of Appropriateness, for such work on the subject property. This requirement is in addition to any other permit or approval required by law.

- b. Failure to comply with a stipulation, standard, or plan made a part of any of these approvals shall constitute a violation of the Zoning Ordinance of the City of Cottonwood. An approved plan shall apply to and run with the property and the rights and responsibilities shall be transferable to future successors and assignees of such property. No permit shall be issued for any building or structure not in compliance with the plan, except that temporary facilities shall be permitted in conjunction with construction. No structure or other element shall be eliminated, or altered or provided in another manner, unless an amendment is approved in conjunction with the procedures for original approval.
- c. Maintenance of the historic resource is required. Ordinary maintenance or repair of any structure that does not alter or modify the historic character of the structure will not require a Certificate of Appropriateness.

I. CERTIFICATE OF APPROPRIATENESS.

1. **Applicability:** A Certificate of Appropriateness is required before commencing any exterior improvements or development, including alteration, restoration, renovation, reconstruction, new construction, demolition or removal, in whole or in part, of any property located within a Historic Preservation Overlay District or to a Historic Landmark, whether or not the work will require a building permit. Building permits for exterior work on properties within historic overlay districts or landmarks cannot be issued without first obtaining a Certificate of Appropriateness.
2. **Exceptions for Minor Work:** A Certificate of Appropriateness may be approved administratively by the Community Development Manager or designee, where it is determined that the proposed activity constitutes a minor change and does not alter the essential appearance and character of the property. Activities that may be approved administratively include, but are not limited to the following: repair or replacement of architectural features with essentially the same materials and design; repair or replacement of signs within existing sign panels or frames; repainting with essentially the same design scheme and colors; or other minor changes or additions that are in conformance with approved Design Guidelines and are considered minor. In addition to the criteria described in this Section or in any Design Guidelines approved for historic preservation, the Commission may authorize staff to approve certain activities administratively. For projects that qualify for administrative approval, all other application requirements and review criteria shall remain in effect.
3. **Application Submittal and Review Procedure.** An application for Certificate of Appropriateness shall be submitted by the owner or agent of the subject property and involves the following steps:
 - a. **Preliminary meeting.** Prior to the submittal of an application for a Certificate of Appropriateness, the applicant shall meet with the Manager or designee to review the application submittal requirements.
 - b. **Application Submittal requirements.** An application for a Certificate of Appropriateness shall contain at a minimum the following:

- 1) Completed application forms.
- 2) Location and description of property with photographs of the subject property and surrounding area affected by proposed project.
- 3) Filing fees as adopted by resolution of the City Council.
- 4) A Project Narrative describing the overall project and specifically addressing the relationship of any proposed activity to the architectural style of the structure, its compatibility with the context of the surrounding structures and area, and a description of proposed building materials, colors, exterior lighting fixtures and types, signage and landscaping or other such development activity if applicable.
- 5) Site plan identifying all existing and proposed structures and other defining aspects of the property, including, landscaping, sidewalks, parking, drainage and similar site features in relation to surrounding streets and other properties.
- 6) Proposed building elevations drawn to scale describing any proposed new materials and colors, and any new features in relation to existing.
- 7) Manufacturers' color and material samples of all proposed exterior paints and colors and samples of roof and other exterior materials to be used, with an explanation on how they relate to existing colors and materials.
- 8) Proposed signs drawn to scale showing dimensions, lettering, colors, materials and any illumination. Indicate locations of signs on elevation drawing.
- 9) Any additional information which the Commission may require to properly evaluate the proposed work.

4. Notice of Public Hearing.

- a. The Certificate of Appropriateness shall be placed on the agenda for a public hearing within 60 days of receipt of a complete application. Public notice of this hearing shall be given as prescribed by Arizona law. The city shall give notice of the date, time and place of a public hearing for consideration of a Certificate of Appropriateness, including a general explanation of the matter to be considered and a general description of the area affected at least 15 days before the hearing in the following manner:
 - 1) Notice of the general nature of the proposed activity which is the subject of the Certificate of Appropriateness and the date and location of the meeting shall be posted on or in proximity to the property;
 - 2) Posting of agendas and notice of hearing in the manner typically required for all such meetings; and

- 3) In addition to notice by the means set forth above, the city may give notice of the hearing in a specific case in such other manner as it deems necessary or appropriate.

5. Conduct of Public Hearing.

- a. Following acceptance of a complete application, staff shall review such application and prepare a report, which shall be submitted to the Commission along with other exhibits and materials necessary to describe the request.
- b. The hearing shall be conducted according to the rules and procedures proscribed for such by law. Staff, applicants and concerned persons may present testimony and/or documentary evidence which will become part of the record of the hearing and the deliberations of the Commission.

J. CRITERIA FOR APPROVAL OF CERTIFICATE OF APPROPRIATENESS

1. It is the intent of this Section to ensure, to the greatest extent possible, that activities requiring a Certificate of Appropriateness shall be compatible with the architectural and historical character of the property or district.
2. Review Context. Review of applications for Certificate of Appropriateness shall be considered in terms of the specific nature and condition of the property, as well as the context in which the property is located, including the historic characteristics and other influences of surrounding properties. Context shall be considered based on the following circumstances:
 - a. Overlay Zoning District: All properties within a Historic Preservation Overlay Zoning District shall be subject to the requirements for review and approval of a Certificate of Appropriateness for applicable activities, except where considered as exempt.
 - b. Landmark Property. Historic landmarks shall be subject to the requirements for obtaining a Certificate of Appropriateness. Alterations or additions to landmarks shall properly preserve the historic and architectural characteristics which make it unique, and any changes or additions shall conform to the intrinsic and unique character of the building or structure.
 - c. Contributing Property. Alterations or additions to a Contributing Property within a Historic Preservation Overlay District shall reflect the architectural style and characteristics of the existing structure and its context with surrounding properties.
 - d. New Construction or Noncontributing Property. New construction or alterations or additions to a noncontributing property within a historic district shall reflect the architectural style of, and be compatible with, the contributing properties located in proximity to the subject property.
3. Review Criteria: The review of the application for a Certificate of Appropriateness shall be considered based on the criteria described in this Section, including any general or specific guidelines that may be approved. The Commission shall use the following

documents and criteria as guidelines when considering an application for a Certificate of Appropriateness:

- a. Any criteria for approval of a Certificate of Appropriateness that may be included in this Section;
 - b. The Secretary of the Interior's Standards for Rehabilitation available from the National Park Service;
 - c. Any design guidelines that may be applicable to a Historic Preservation Overlay District or landmarks within the City of Cottonwood;
 - d. The Secretary of the Interior's Preservation Briefs and other information developed by the National Park Service, Arizona Historic Preservation Office (SHPO), National Trust for Historic Preservation, National Alliance of Preservation Commissions, Association of Preservation Technology, and other professionally prepared reference documents; and
 - e. Any other guidelines as adopted by the City Council.
4. Decision: The decision shall be to approve, conditionally approve or deny a Certificate of Appropriateness based on the following:
- a. The proposed work does not detrimentally alter, destroy or adversely affect any architectural or landscape feature;
 - b. The proposed work will be compatible with the relevant historic, cultural, educational or architectural qualities characteristic of the structure, or district and shall include but not be limited to elements of size, scale, massing, proportions, orientation, surface textures and patterns, details and embellishments and the relationship of these elements to one another;
 - c. The proposed work conforms with any design review guidelines and/or other applicable criteria as established; and
 - d. The exterior of any new improvement, building or structure in a designated historic preservation overlay district or upon a landmarked site will not adversely affect and will be compatible with the external appearance of existing designated buildings and structures on the site or within such district.
5. Effect of Approval:
- a. Expiration: A Certificate of Appropriateness expires one (1) year from the date of issuance unless work is started within that time. Evidence of work shall include maintaining an active building permit from the City for the applicable work or similar evidence of intent to proceed through filing of applications for related permits and approvals from the City.

- b. Revisions After Approval: No change shall be made in the approved plans of a project after issuance of a Certificate of Appropriateness without re-submittal to the Commission and approval of the change in the same manner as provided.
- c. Non-Approved Work: If work exceeds that specified in the Certificate of Appropriateness, the Certificate of Appropriateness may be suspended or revoked by order of the Community Development Director. If so ordered, all work shall cease to allow review of the scope of approval. If necessary, the applicant may be required to resubmit the changes to the Commission for approval. Work in violation of the Certificate of Appropriateness may be subject to enforcement action as per applicable City codes and ordinances.
- d. The Certificate of Appropriateness required by this Section shall be in addition to any other permits, approvals or review required for the proposed project.

K. FINDING OF HARDSHIP FOR CERTIFICATE OF APPROPRIATENESS

- 1. An applicant shall submit an application for Finding of Hardship within ten (10) working days after receiving notification from the Commission of the denial of a Certificate of Appropriateness or of specific conditions to be considered. Application shall be in writing to the Director or designee and shall state the reasons for consideration of the hardship. In addition, the applicant shall provide detailed documentation of why the request shall be considered a hardship, including cost estimates, comparative studies, expert documentation or other such information as necessary to adequately present such new information.
 - a. Is infeasible from a technical, mechanical, or structural standpoint.
 - b. Would leave the property with no reasonable economic value because it would require an unreasonable expenditure taking in to account such factors as current market value, permitted uses of the property, and the cost of compliance with applicable local, state and federal requirements.
 - c. Costs necessitated by the neglect or failure of the current owner/s to maintain the property shall not be considered in making this finding.
 - d. The Commission finds that the alterations of a contributing property would not have a substantial adverse impact on the historic significance or integrity of a Historic Preservation Overlay District.
- 2. The Commission shall hold a public hearing on the hardship application at their next regularly scheduled meeting. Decisions at that time shall be final.

M. DEMOLITION OF HISTORIC LANDMARK OR CONTRIBUTING PROPERTY WITHIN A HISTORIC DISTRICT.

It is the intent of this Section to encourage preservation and protection of historic structures and significant resources within designated Historic Districts and other designated Historic Landmarks. However, it is recognized that there can be circumstances beyond the control of

a property owner which may result in the necessary demolition of a Landmark or structure within a designated District. These circumstances include a building which constitutes a non-repairable public nuisance, which involves a resource whose loss does not adversely affect or may even benefit the integrity of the District, or which imposes an economic hardship on the owner. This Section is intended to apply to demolition of buildings or structures and shall not include demolition permits issued for the purpose of interior remodeling or other purposes not applicable to the Historic Preservation Ordinance.

1. **Non-Historic Demolition:** Demolition of non-historic structures within a Historic District shall not be exempt from the requirements of the Historic Preservation Ordinance and will require first applying for a Certificate of Appropriateness. The area of a site left vacant by a demolition shall be maintained in a manner not detrimental to the surrounding vicinity in accordance with applicable City codes and ordinances, including dust-free surface treatment and abatement of weeds, trash, debris, outdoor storage or other public nuisances.
2. **Landmark Demolition:** Partial or complete demolition of designated historic properties and landmarks shall not be permitted without first applying for a Certificate of Appropriateness. Application for such a demolition shall be made to the Historic Preservation Commission, which shall hold a public hearing to determine if the applicant has shown that the preservation of the structure is physically and/or economically infeasible.
3. **Consideration of Alternatives to Demolition:** Before granting a request for demolition, the Commission shall review the historic or cultural value of the property and shall consider options including incentives to the owner for restoration or recommendation to Council that the city consider purchasing the property or seek other methods to ensure the preservation of the building or structure. The Commission shall review the request for demolition based on the following:
 - a. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.
 - b. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
 - c. If preservation is found to be physically and/or economically infeasible, the Commission shall approve the Certificate of Appropriateness, thereby allowing issuance of the Demolition Permit by the Community Development Department.
 - d. A landmark or contributing property may be demolished if the chief building official has determined that an imminent safety hazard exists and that demolition of the structure is the only feasible means to secure the public safety.
 - e. If preservation is considered feasible, the Commission shall delay issuance of the Certificate of Appropriateness for a period up to ninety (90) days in length so as to consider alternatives to demolition.
 - f. The applicant, at their cost, may submit an independent third-party review of the structural integrity of the building or structure in relation to necessary improvements

so as to determine the feasibility of alternatives to demolition. Such independent review shall be conducted by a registered professional in the State of Arizona, including an architect, structural engineer or other professional engineer, or other with demonstrated expertise in historic preservation and rehabilitation.

- g. During the delay period, the applicant shall consult in good faith with the Commission, City staff, the State Historic Preservation Office, local and state preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation or sale of the property so as to promote preservation. The applicant shall have ninety (90) days in which to advertise to have the property purchased at a fair market value or to receive appraisals, cost estimates, and proposals on the restoration of such properties.
- h. If no purchaser has been found within the initial ninety (90) day period and no other plan is shown to demonstrate a reasonable alternative, then the Certificate of Appropriateness for the proposed demolition shall be issued.
- i. The applicant shall bear the burden of proof for all findings required for approval of a Certificate of Appropriateness.
- j. If a preservation plan is presented to the Commission within the delay period specified above by any interested party who may be any member of the public, indicating a feasible and reasonable approach to saving a threatened historic resource, the Commission will consider the merits and feasibility of the preservation plan. The Commission may decide to provide copies of such preservation plan to the property owner so as to consider alternatives to demolition.
- k. In making its decision, the Commission shall consider testimony and the effects on the surrounding neighborhood, and advise the property owner on preservation alternatives.
- l. The property owner shall have twenty-one (21) days from the date of approval to sign the Certificate of Appropriateness or to appeal any conditions contained therein.

N. FINDING OF HARDSHIP FOR DEMOLITION.

1. Economic Hardship Criteria for Demolition of Historic Structures. Separate standards and application requirements may be established by the city for granting economic hardship relief for income-producing properties and for non-income producing properties. The Commission shall issue the Certificate of Appropriateness if the Commission finds, after review, that maintenance, use and/or alteration of the designated property in accordance with the requirements of this article would cause immediate and substantial hardship on the property owner/s based on one or more of the following issues:
 - a. That a temporary delay period of up to ninety (90) days has elapsed and no reasonable alternative has been demonstrated by the applicant, the City, or any other interested parties.
 - b. Is infeasible from a technical, mechanical, or structural standpoint;

- c. Would leave the property with no reasonable economic value because it would require an unreasonable expenditure taking in to account such factors as current market value, permitted uses of the property, and the cost of compliance with applicable local, state and federal requirements;
 - d. Costs necessitated by the neglect or failure of the current owner/s to maintain the property need not be considered in making this finding; and/or
 - e. The Commission finds that the demolition of a contributing property would not have a substantial adverse impact on the historic significance or integrity of a Historic Preservation Overlay District.
2. Limitations on Economic Hardship Criteria: Demonstration of an economic hardship shall not be based on or include any of the following circumstances:
- a. Willful or negligent acts by the owner.
 - b. Purchase of the property for substantially more than market value.
 - c. Failure to perform normal maintenance and repairs.
 - d. Failure to diligently solicit and retain tenants.
 - e. Failure to provide normal improvements.

O. MAINTENANCE AND REPAIR.

Each property designated as a landmark, and properties designated as contributing properties within a Historic Preservation Overlay District shall be maintained in good condition and faithful to its historic character. Nothing in this Section shall be construed to prevent normal maintenance and repair of any exterior feature of any structure designated as a landmark or contributing property within a HP District, which does not involve change in design, material, color or outward appearance. The Commission shall not consider the interior arrangements or alterations to the interior of a building, unless designation specifically includes the interior or a portion thereof.

P. APPEALS.

Any person or persons aggrieved by a decision of the Commission may appeal to the City Council within fifteen (15) working days of the Commission's action, by filing with the City Clerk written notice of appeal and any applicable fee as may be adopted. The Council shall render a decision to sustain, conditionally overrule or overrule the Commission decision. The Council may choose to hold a public hearing if deemed appropriate.

Q. VIOLATIONS AND ENFORCEMENT.

All work performed pursuant to this Section shall conform to requirements thereof. Compliance shall be confirmed by inspections made by the City of Cottonwood officials, including the Building Official, Manager or designee. The appropriate City officials shall ensure that all matters are undertaken according to conditions of the approved plans. Noncompliance with the approved plans shall be grounds for stopping work on the project or for denial of a Certificate of Occupancy. Any person who causes unauthorized demolition, alteration, construction, or permits degradation or disrepair of a designated property as defined in this Section may be required to restore the property and site to its condition prior to the violation.

R. SEVERABILITY.

This article and its sections are hereby declared to be severable. If any section, subsection, clause, word or phrase of this article is held to be void, unlawful or unconstitutional, such holdings shall not affect the validity of the remainder of this article or of the Zoning Ordinance.

SECTION 311. CERTIFICATE OF ZONING COMPLIANCE.

A. PURPOSE AND SCOPE.

The purpose of the Certificate of Zoning Compliance is to ensure that all conditions of approval as stipulated by the Planning and Zoning Commission, Board of Adjustment, and/or City Council, or as administratively approved by the Community Development Director, are completed prior to use or occupancy, and as per a time frame for establishment that may be specified.

B. APPLICABILITY.

A Certificate of Zoning Compliance shall be required for development applications as stipulated by the Planning and Zoning Commission, Board of Adjustment and/or City Council, or as required for applications administratively approved by the Community Development Director. Such applications shall include, but not be limited to, Conditional Use Permits, Rezoning, Design Review and Subdivisions.

C. PROCEDURES.

1. Inspection: Prior to issuance of a Certificate of Zoning Compliance, the Community Development Director, or designee, shall schedule an on-site inspection of the property to review conditions for compliance with requirements. If all conditions are met, the Director shall issue a Certificate of Zoning Compliance.
2. Issuance of Certificate: The Certificate of Zoning Compliance shall provide documentation of compliance with conditions of approval for development applications. The Certificate shall indicate the property location and provide a project description. In addition, it shall indicate what use or occupancy is permissible and specify that the applicable conditions of approval have been met. A Certificate of Zoning Compliance may be issued for a phase of a project where such phased development is approved through the development approval process.
3. Time Frame: The Certificate of Zoning Compliance shall be subject to meeting a time frame for completion of conditions, as specified by the approving authority. If the conditions have not been met after the required time frame for completion, the Certificate of Zoning Compliance shall not be issued and the continued use of the property shall be deemed to be in violation of City regulations subject to enforcement by applicable procedures, including revocation of a Conditional Use Permit or other zoning approvals.
4. Extension of Time: The Community Development Director may administratively approve an extension of time for up to six (6) months to complete the required conditions provided the project is active and current with regards to building permits and development activity. For additional time, the applicant will need to request an extension from the Planning and Zoning Commission or authorizing body.
5. Statement of Findings: If a Certificate of Zoning Compliance cannot be issued, a statement of the specific points of noncompliance, described as the findings of fact, shall be issued by the City stating the reasons the Certificate cannot be issued and the conditions necessary to achieve compliance, including the time frame for completion, alternate methods of remedy and rights of appeal.
6. Decision: If the required conditions of approval are not established within the time frame specified for completion, or if no attempt is made to comply with required conditions, and all other remedies offered for compliance are unsuccessful, the Certificate of Zoning Compliance shall not be issued by the Community Development Director. The failure to implement the conditions necessary for approval of the Certificate within the time frame specified, or after any extensions of time granted, shall be deemed to be a violation of City regulations subject to enforcement by applicable procedures, including revocation of a Conditional Use Permit or other zoning approvals.
7. Limitations: A Certificate of Zoning Compliance issued in conformance with this Ordinance does not imply approval for any other permits or actions that may be required by other departments, agencies or parties, and which are otherwise the responsibility of the property owner, developer or applicable representative to obtain.

D. REVOCATION.

1. In addition to any other enforcement procedures which may be applicable, a Certificate of Zoning Compliance granted in accordance with the provisions of this Ordinance may be revoked at a later date if the conditions or terms of the Certificate are violated.
2. The Community Development Director shall notify the property owner or authorized representative of a violation of the Certificate of Zoning Compliance by contacting such owner or representative in the proscribed manner and shall allow at least thirty (30) days to correct the violation. Upon completion of all necessary actions to correct any possible violation, the Community Development Director shall re-inspect the property and if satisfactory, shall confirm the approved status of the Certificate of Zoning Compliance.
3. The failure of an applicant to reinstate a Certificate of Compliance after thirty (30) days' notice shall be deemed to be a violation of City regulations subject to enforcement by applicable procedures, including revocation of a Conditional Use Permit or other zoning approvals.
4. A Certificate of Zoning Compliance that has been revoked shall be considered null and void and the continued use of the property for the uses indicated shall be deemed a violation of City regulations subject to enforcement by applicable procedures.

E. APPEAL.

For matters concerning the administration of this Ordinance, the applicant may appeal any such decision of the Community Development Director to the Planning and Zoning Commission by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of issuance of said Certificate of Zoning Compliance or notice of Revocation.