

ORDINANCE NUMBER 610

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING TITLE 1, GENERAL PROVISIONS, OF THE COTTONWOOD MUNICIPAL CODE.

WHEREAS, the City Council finds it necessary and appropriate to amend Title 1, General Provisions, of the Cottonwood Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1. That Title 1, General Provisions, of the Cottonwood Municipal Code be amended as follows:

**Chapter 1.01. - Designation and citation of Code.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Cottonwood Municipal Code," and may be so cited. Such Code may also be cited as the "Code of Ordinances, City of Cottonwood, Arizona." The Code consists of parts I and II.

**Chapter 1.02. - Definitions and rules of construction.**

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

*Generally.* When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings. Provisions shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. In the event of conflicts between provisions, the more stringent provision controls. It is intended that no provision of this Code

conflict with any federal or state law intended to preempt municipal jurisdiction with respect to the subject matter contained in this Code and the provisions of this Code shall be construed, whenever possible, to avoid such conflict.

*Acts by agents.* When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent.

*A.R.S.* The abbreviation "A.R.S." means the Arizona Revised Statutes, as amended.

*City.* The term "city" means the City of Cottonwood, Yavapai County, Arizona.

*Code.* The term "Code" means the "Cottonwood Municipal Code," as designated in Chapter 1.01.

*Computation of time.* The time in which an act is required to be done, when expressed in days, is computed by excluding the first day and including the last day, unless the last day is a holiday, and then it is also excluded. In cases in which notice of a decision by the city must be given to a petitioner and in which the petitioner must file a notice of appeal of such decision within a time certain of less than ten days, such time shall be computed starting with the day after the day during which the notice of decision is received by the petitioner by personal service or registered or certified mail.

*Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows, except that in appropriate circumstances the terms "and" and "or" are interchangeable.

(1) "And" indicates that all the connected terms, conditions, provisions or events apply.

(2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) "Either...or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

*Council, common council or city council.* The term "council," "common council" or "city council" means the mayor and council members of the city.

*County.* The term "county" means Yavapai County, Arizona.

*Day.* The term "day" shall mean calendar day.

*Delegation of authority.* Any provision requiring a city officer or a city employee to do some act is to be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the required act.

*Departments, boards, officers, etc.* References to a department, board, commission, office, officer or employee are to a department, board, commission, office, officer or employee of the city.

*Gender.* Words of one gender include all other genders.

*Includes.* The term "includes" does not limit a term to a specified example.

*May.* The term "may" is to be construed as being permissive.

*May not.* The term "may not" states a prohibition.

*Month.* The term "month" means a calendar month.

*Must.* The term "must" is to be construed as being mandatory.

*Number.* Words used in the singular include the plural. Words in the plural include the singular.

*Oath.* The term "oath" means and includes an affirmation in cases in which, by law, an affirmation may be substituted for an oath. In such cases, "swear" and "sworn" are equivalent to "affirm" and "affirmed."

*Owner.* The term "owner," as applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

*Person.* The term "person" means and includes the state, the county, a political subdivision of the state, other governmental entities, a corporation, limited liability company, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. The term "person" also includes a trustee, receiver, an assignee or similar representative.

*Personal property.* The term "personal property" means other than real property.

*Property.* The term "property" includes real and personal property.

*Real property.* The term "real property" includes lands, tenements, and hereditaments.

*Shall.* The term "shall" is to be construed as being mandatory.

*Signature or subscription.* The term "signature" or "subscription" means and includes a mark, when a person cannot write, with their name written near it and witnessed by a person who writes their own name as witness.

*State.* The term "state" means the State of Arizona.

*Tenant or occupant.* The term "tenant" or "occupant," as applied to a building or land, means and includes any person holding a written or an oral lease of or who occupies the whole or part of such building or land, either alone or with others.

*Tense.* The present tense includes the past and future tenses, and the future includes the present.

*Week.* The term "week" consists of seven consecutive calendar days.

*Writing and written.* The term "writing" or "written" means and includes printing and any other mode of representing words and letters, including any form of recorded message capable of comprehension by ordinary visual means.

*Year.* The term "year" means a calendar year.

State law reference— General definitions and rules of construction for state statutes, A.R.S. § 1-211 et seq.; computation of time, A.R.S. § 1-243.

**Chapter 1.03. - Headings of sections; effect of history notes; references in Code.**

(a) The headings of the several sections of this Code are intended to indicate the contents of the sections and are not titles of such sections, nor any part of such sections, nor, unless expressly so provided, are they to be so deemed when any of such sections, including the headings, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. State law references that appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles, divisions, subdivisions or sections are to the chapters, articles, divisions, subdivisions or sections of this Code, as amended, unless otherwise specified.

State law reference – Effect of cross references in state statutes, A.R.S. § 1-212.

**Chapter 1.04. - Effect of repeal of ordinance.**

(a) The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance that has been repealed thereby.

(b) The repeal of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed ordinance.

State law reference – Effect of repeal of state statutes, A.R.S. § 1-248 et seq.

**Chapter 1.05. - Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of the Cottonwood Municipal Code is hereby amended to read as follows: ...." The section (chapter, article, division, or subdivision) should be set out in full.

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Cottonwood Municipal Code is hereby created to read as follows: ...." The section (chapter, article, division, or subdivision) should be set out in full.

(d) All provisions desired for repeal should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

**Chapter 1.06. - Supplementation of Code.**

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

(1) Organize the ordinance material into appropriate organizational units;

(2) Provide appropriate headings and titles for sections and other organizational units of the Code printed in the supplement, and make changes in such headings and titles;

(3) Assign appropriate numbers to sections and other organizational units to be inserted in the Code and, where necessary to accommodate new material, change existing section or other organizational unit numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall changes be made in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Chapter 1.07. - General penalty; continuing violations.**

(a) In this section, the term "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance;

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" includes causing, allowing, permitting, aiding, abetting, suffering, or concealing a violation of this Code as defined in subsection (a) of this section.

(c) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(d) Except as otherwise provided, a person convicted of a violation of this Code shall be guilty of a class 1 misdemeanor and subject to the punishment for a class 1 misdemeanor under state law. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense and each act constitutes a separate offense. In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced. Officers of any corporation or partners of any firm licensed that are found to have committed a violation of this Code shall be individually subject to fine and/or imprisonment.

(e) Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

State law reference— Authorized penalty for ordinance violations, A.R.S. § 9-240(B)(28); sentence of imprisonment for class 1 misdemeanor, A.R.S. § 13-707; fines for class 1 misdemeanor, A.R.S. §§ 13-802, 13-804.

**Chapter 1.08. - Severability of parts of Code.**

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Code. The city council declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases have been declared invalid or unconstitutional. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

**Chapter 1.09. - Provisions deemed as continuations of existing ordinances.**

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

**Chapter 1.10. - Code does not affect prior offenses or rights.**

- (a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- (b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

**Chapter 1.11. - Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code affects the validity of the following ordinances or portion of ordinances. Such ordinances or portions of ordinance continue in full force and effect to the same extent as if published at length in this Code.

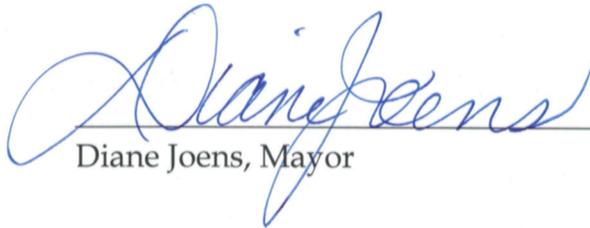
- (1) Annexing property into the city.
- (2) De-annexing property or excluding property from the city.
- (3) Describing the boundaries of the city.
- (4) Promising or guaranteeing the payment of money or authorizing the issuance, sale or security of bonds or other instruments of indebtedness.
- (5) Authorizing or approving any contract, deed, or agreement.
- (6) Making or approving any appropriation or budget.
- (7) Providing for salaries, benefits, or terms or conditions of employment of city officers or employees not codified in this Code, or creating or amending any department, division or other agency of city government, or any employment classification or position, whether elected or appointed, not codified in this Code.
- (8) Creating any department or agency not codified in this Code.
- (9) Granting any right or franchise.
- (10) Adopting or amending the comprehensive plan.
- (11) Providing for local improvements or levying or imposing any special assessment.
- (12) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
- (13) Establishing the grade or any street or sidewalk.
- (14) Dedicating, accepting or vacating any plat or subdivision.
- (15) Levying or imposing taxes not codified in this Code.
- (16) Rezoning specific property.
- (17) That is temporary, although general in effect.
- (18) That is special, although permanent in effect.

(19) The purpose of which has been accomplished.

(20) Cottonwood Zoning Ordinance

Section 2. That if any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, ARIZONA, THIS 17TH DAY OF MARCH 2015.



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Diane Joens, Mayor

APPROVED AS TO FORM:



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Steven B. Horton, Esq.  
City Attorney

ATTEST:



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Marianne Jiménez, City Clerk