

ARTICLE I - ADMINISTRATION

SECTION 101. SHORT TITLE.

This Ordinance shall be known as "The Zoning Ordinance of the City of Cottonwood".

SECTION 102. PURPOSE.

The purposes of this Ordinance are to secure safety from fire, panic and other dangers; to provide adequate light and air; to lessen congestion in the streets; to prevent the overcrowding of land; to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources; and to otherwise promote the health, safety, convenience and general welfare of the citizens of the City of Cottonwood, Arizona.

SECTION 103. INTERPRETATION AND APPLICATION.

In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements for the promotion of a comprehensive plan and for the promotion of the public health, safety and general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or with restrictions placed provided that where this Ordinance imposes a greater restriction on land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Ordinance shall control.

SECTION 104. PLANNING AND ZONING COMMISSION.

A. ESTABLISHMENT; COMPOSITION; TERMS OF MEMBERS; VACANCIES; COMPENSATION OF MEMBERS.

There is hereby established a Planning and Zoning Commission of the City of Cottonwood, to consist of seven (7) members, each of whom shall be a resident of the City of Cottonwood, to be appointed by the City Council, with at least two (2) of whom shall be qualified by design-related background, training or experience, including architecture, landscape architecture, interior design, planning, fine arts or other design-related background. The members of the Commission shall be appointed for a term of three (3) years. In the event of a death, resignation or removal from the Commission, the vacancy shall be filled by the Council for the unexpired term. Members of the Commission may, after public hearing, be removed by the Council for inefficiency, neglect of duty or malfeasance in office. The Council shall file a written statement of the reasons for removal. A member absent from three (3) regular meetings or a cumulative total of five (5) regular or special meetings within a calendar year shall constitute the constructive resignation of that member, and said vacancy shall be filled by the City Council, with the option that said member may apply in writing to the City Council for consideration of reinstatement. All members shall serve without pay. However, members of the Commission may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the Commission and approval of such expenditures by the City Manager.

B. POWERS AND DUTIES.

It shall be the duty of the Commission to formulate and administer any lawful plan duly adopted by the Council for the present and future growth and development of the City of Cottonwood, pertaining to the use of land and buildings for any purpose, to make or cause to be made a continuous study of the best present and future use to which land and buildings shall be put within the City of Cottonwood and in cooperation with adjacent areas and to recommend to the Council revisions in such plans which, in the opinion of the Commission, are for the best interest of the citizens of the City of Cottonwood to hold public hearings where necessary; to make recommendations to the Council on all matters concerning or relating to the creation of zoning districts, the boundaries thereof, the appropriate regulations to be enforced therein and amendments of this Ordinance; to carry out the specific duties as associated therewith and commonly known as "Planning and Zoning." The Commission is also authorized to confer and advise with other city, county, regional or state planning commissions. The Planning and Zoning Commission shall have the authority to approve, conditionally approve or disapprove all applications for Design Review as required by Section 304 of the City of Cottonwood Zoning Code, based on the criteria set forth in the aforementioned section or any supplemental guidelines to the Criteria as approved by the City Council or any other applicable Design Policies or Guidelines as established through the legal authority of the City of Cottonwood.

C. SELECTION OF OFFICERS.

The Commission shall elect a Chairman and Vice-Chairman from among its own members, who shall serve for one (1) year and until their successors are elected and qualified. The Chairman shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization. The Chairman shall have the power to administer oaths and to take evidence. The Vice-Chairman shall perform the duties of the Chairman in the latter's absence or disability. Vacancies created by any cause shall be filled for the unexpired term by a new election.

D. QUORUM; VOTING.

Four (4) members shall constitute a quorum. The affirmative vote of a majority of members voting shall be required for passage of any matter before the Commission. A member may abstain from voting only upon a declaration that he has a conflict of interest, in which case such member shall take no part in the deliberation on the matter in question.

E. RULES; REGULATIONS; RECORDS; MEETINGS.

The Commission shall make and publish rules and regulations to govern its proceedings and to provide for its meetings. Meetings of the Commission shall be open to the public. The minutes and records of all Commission proceedings shall be kept and filed as public record in the office of the City Clerk.

SECTION 105. BOARD OF ADJUSTMENT.

A. ESTABLISHMENT; COMPOSITION; TERMS OF MEMBERS; VACANCIES; ABSENT MEMBERS; COMPENSATION OF MEMBERS.

There is hereby established a Board of Adjustment of the City of Cottonwood, to consist of five (5) members, each of whom shall be a resident of the City of Cottonwood, to be appointed by the City Council. The members of the Board shall serve for three (3) years, except as hereinafter provided. The members of the first Board appointed hereunder shall serve for the following terms: two (2) members shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of three (3) years. In the event of a death, resignation or removal from the Board, the vacancy shall be filled by the Council for the unexpired term. Members of the Board may, after public hearing, be removed by the Council for inefficiency, neglect of duty or malfeasance in office. The Council shall file a written statement of the reasons for removal. Any member who is absent for three (3) consecutive regular meetings, or a cumulative total of seven (7) meetings throughout the calendar year, shall automatically cease to hold membership without further action being taken by the City Council. All members shall serve without pay. However, members of the Board may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the Board and approval of such expenditures by the City Manager.

B. POWERS AND DUTIES.

1. It shall be the duty of the Board of Adjustment to:
 - a. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the Zoning Administrator in the enforcement of the Zoning Ordinance and to 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.
 - b. Hear and decide appeals for variances from the terms of the Zoning Ordinance. A variance shall not be granted unless the Board of Adjustment shall find upon sufficient evidence:
 - 1) That there are special circumstances or conditions applicable to the property, including its size, shape, topography, location, or surroundings; and
 - 2) That such special circumstances or conditions are pre-existing and not self-imposed or created by the property owner or the applicant; and
 - 3) The strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other property of the same classification in the same zoning district; and
 - 4) The adjustment authorized does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

2. The Board of Adjustment may not:

- a. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning Ordinance provided the restrictions in this paragraph shall not affect the authority to grant variances pursuant to this article.
- b. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner. This includes economic hardships, interest in improving financial return on investment or other personal circumstances of the property owner or applicant.

C. SELECTION OF OFFICERS.

The Board shall elect a Chairman and Vice-Chairman from among its own members, who shall serve for one (1) year and until their successors are elected and qualified. The Chairman shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization. The Chairman shall have the power to administer oaths and to take evidence. The Vice-Chairman shall perform the duties of the Chairman in the latter's absence or disability. Vacancies created by any cause shall be filled for the unexpired term by a new election.

D. QUORUM; VOTING.

Three (3) members shall constitute a quorum. The affirmative vote of a majority of members voting shall be required for passage of any matter before the Board. A member may abstain from voting only upon a declaration that he has a conflict of interest, in which case such member shall take no part in the deliberation on the matter in question. The vote of each member shall be shown in the minutes of the meeting.

E. RULES; REGULATIONS; RECORDS; MEETINGS.

The Board shall make and publish rules and regulations to govern its proceedings and to provide for its meetings. Notice of the time and place of the hearing, including a general explanation of the matter to be considered, shall be given at least fifteen (15) days before the hearing. The notice shall be published at least once in a newspaper of general circulation. In addition, notice shall be posted on the property affected, when applicable, in a manner readily visible to the general public. All meetings of the Board shall be open to the public. The minutes and records of all Board proceedings shall be kept and filed as public record in the office of the City Clerk.

F. PROCEDURES.

Procedures for Appeals to the Board of Adjustment and Appeals from the decisions of the Board of Adjustment shall be as per Zoning Ordinance Section 306. Appeals and Variances.

SECTION 107. CODE REVIEW BOARD.

A. ESTABLISHMENT; COMPOSITION; TERMS OF MEMBERS; VACANCIES; COMPENSATION OF MEMBERS.

There is hereby established a Code Review Board of the City of Cottonwood, to consist of five (5) members as follows: the Cottonwood Planning and Zoning Administrator, the Cottonwood City Engineer, the Cottonwood Fire Chief, the Cottonwood Police Chief and the Cottonwood Building Official. The Board Members shall serve for as long as they are employed in those capacities by the City of Cottonwood. Members of the Board may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the Board and approval of such expenditures by the City Manager.

B. POWERS AND DUTIES.

In accordance with the provisions of this Ordinance, it shall be the duty of the Code Review Board to review all proposed developments with the exception of single-family residences and mobile homes. The purpose of this review shall be to ensure that new developments adequately provide for vehicular and pedestrian safety; provide for proper drainage, adequately protect adjoining properties from excessive and unreasonable noise, vibrations, gases, odors, light and other nuisance; shall not be detrimental to the public peace, health, safety and general welfare; and shall provide proper landscaping as required by this Ordinance.

The City of Cottonwood Building Official shall receive all plans for plan approval. The Building Official shall distribute the plans and a review form to each of the Board Members. The individual Board Members are responsible for returning the plans and completed review form to the Building Official by the date required on the form. The Building Official will then notify the applicant and supply a copy of all the completed review forms to the applicant.

Upon approval of the proposed plans, by all Board Members, the Building Official may issue a Building Permit.

SECTION 108. ZONING ADMINISTRATOR.

A. CREATION; APPOINTMENT.

There is hereby created the office of Zoning Administrator of the City of Cottonwood, who shall be appointed from time to time by the City Manager.

B. POWERS AND DUTIES.

1. The Zoning Administrator shall:

- a. Enforce the Zoning Ordinance.
- b. Accomplish all administrative actions required by the Ordinance.
- c. Undertake preliminary negotiation with and provide advice to, all applicants for zoning adjustment action, Use Permits, plan review, or other action of the Planning and Zoning Commission.
- d. Subject to general and specific policy laid down by the Planning and Zoning Commission and City Council, interpret the Zoning Ordinance to members of the public, City Departments and other branches of government.

SECTION 109. ENFORCEMENT.

The Zoning Inspector shall issue a violation notice by certified mail to the person or persons in violation of the City Zoning Ordinance. The notice will explain the nature of the complaint, the corrective action and a time period of not less than 15 calendar days for such correction. If such time should pass without corrective action, a complaint may be filed with the Municipal Court. Said complaint shall state that the Zoning Inspector has reasonable cause to believe a Class 3 Misdemeanor in violation of one or more provisions of the City of Cottonwood Zoning Ordinance or amendments thereto has been committed and shall describe the conduct of the person that constitutes the violation. The Court shall issue a summons to the person which shall specify the date and time of the initial appearance before the Court.

SECTION 110. VIOLATION AND PENALTY.

It is hereby declared to be unlawful to construct, erect, install, alter, change, demolish, maintain or use any house, building, structure or fence or to use any lot or premise contrary to or in violation of any provision of this Ordinance. Any person, firm or corporation violating any of the provisions of the City of Cottonwood Zoning Ordinance shall be guilty of a Class 3 Misdemeanor and, upon conviction thereof, shall be punished by a fine as set forth in A.R.S. 13-802 and A.R.S. 13-804 or by imprisonment in the City jail facility for not more than thirty (30) days or both such fine and imprisonment. Every such person, firm or corporation shall be deemed guilty of a separate offense for each and every day in which such violation is committed, continued or permitted and shall be punished therefore as herein before provided in this Section.

SECTION 111. SEVERABILITY.

If any part of "City of Cottonwood Zoning Ordinance" is found to be invalid or unconstitutional by any court, such action shall not apply to the Ordinance as a whole and it is intended and declared that all parts of said "City of Cottonwood Zoning Ordinance" not expressly declared to be invalid or unconstitutional shall continue in full force and effect notwithstanding so much thereof as may be declared to be invalid or unconstitutional.

