

## CHAPTER 1 - TITLE, PURPOSE AND SCOPE

### SECTION 1.0 SHORT TITLE:

These regulations shall be known as the “Town of Cave Creek Zoning Ordinance”, which may be cited as such and will be referred to herein as “this Ordinance”. All appendices, exhibits and/or maps attached to this Ordinance are hereby adopted and shall be incorporated herein as a part of this Ordinance.

### SECTION 1.1 PURPOSE and SCOPE:

- A. The purpose of this Ordinance is to:
  - 1. Promote the public health, safety, and general welfare of the citizens of the Town of Cave Creek (“the Town”).
  - 2. Provide the minimum requirements for the implementation of the vision, goals and objectives as outline within the Town of Cave Creek’s General Plan.
  - 3. Guide, manage, and regulate the future growth and development of the Town.
  - 4. Protect private property rights
  - 5. Preserve the character of the Town
  - 6. Insure the financial stability of the Town.
- B. This Ordinance shall incorporate all Town adopted codes and ordinances as they relate to all development, construction, alteration, moving, repair and use of any building, parcel of land or sign within the Town.
- C. Where, in any specific case, different sections of this Ordinance or any other Federal, State, County or Town ordinance or code specify different requirements, the more restrictive shall govern.
- D. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall apply.
- E. This Ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Any benefits and detriments to specific individuals or properties resulting from the implementation, administration and enforcement of this Ordinance are incidental to the overall benefit to the whole community.

- F. Unintentional breaches of the obligations of administration and enforcement imposed on the Town shall not be enforceable in tort.
- G. This Ordinance establishes procedures, offices, boards, and commissions for the enforcement, interpretation, and processing of amendments, variances, conditional use permits, and appeals and for violations and penalties for infractions of these regulations.
- H. All changes to the appearance of or the use of a building or land, as evidenced by increased parking requirements, change of occupancy, change of outside storage, or other features, occurring to existing properties after the effective date of this Ordinance shall be subject to all provisions of this Ordinance.
- I. The use of a building or parcel of land shall refer to the primary or specific purpose for which the building or land is occupied, designed, intended, or maintained.

## SECTION 1.2 FILING FEES:

- A. Fees for services shall be charged subject to the following:
  - 1. All fees shall be set by Resolution of the Town Council (“the Council”).
  - 2. Schedules listing all fees shall be available at the Town Hall.
  - 3. The developer/applicant shall, at the time of filing, pay to the Town those established fees.
  - 4. All paid fees shall be non-refundable unless otherwise specifically provided for herein.

## SECTION 1.3 INTERPRETATION:

- A. The standards and restrictions established by this Ordinance shall be held to be the minimum requirements for the promotion of the General Plan, and for the interpretation and administration of the zoning regulations, standards, restrictions, uses, procedures, enforcement, fees, administration, and all other areas addressed herein.

- B. This Ordinance is not intended to:
  - 1. Interfere with, abrogate, or annul any existing provisions of other laws or ordinances, except those zoning and building ordinances specifically repealed by this Ordinance, and providing that they are not in conflict with this Ordinance. In the event of a conflict, the provisions of this Ordinance shall govern.
  - 2. Interfere with, abrogate, or annul any private agreements between persons, such as easements, deeds, covenants, except that if this Ordinance imposes higher standards or a greater restriction on land, buildings or structures than an otherwise applicable provision of a private agreement, the provisions of this Ordinance shall prevail.
- C. This Ordinance amends the text of all other Zoning Ordinances previously adopted by the Town of Cave Creek, Arizona.

## SECTION 1.4 APPLICABILITY:

- A. This Ordinance shall govern the development and or the use of land and structures within the corporate limits of the Town of Cave Creek.
- B. Any use or occupation of a structure, parcel of land, or portion thereof, shall conform to the requirements of this Ordinance.
- C. All departments, officials and employees charged with the duty or authority to issue permits or licenses shall refuse to issue permits or licenses for uses or purposes where said issuance would conflict with any applicable provision of this Ordinance.
- D. Any permit issued in conflict with the terms or provisions of this Ordinance shall be recognized by the Town as being null and void.
- E. No Building Permit or other permit required by this Ordinance shall be issued unless a Site Plan and Zoning Clearance have been submitted for review and approved by the Town.
- F. Except as specifically identified in this Ordinance, each review and approval required by this Ordinance shall be independent of every other review and approval, and no review or approval shall be deemed to waive or satisfy any other requirement set forth herein.

## SECTION 1.5 ENFORCEMENT:

- A. The Zoning Administrator shall interpret, apply and enforce the provisions of this Ordinance to further the promotion of the public health, safety, and general welfare.
- B. The Zoning Administrator shall in no case grant permission for the issuance of any permit for the construction, reconstruction, alteration, demolition, movement or use of any building, structure, lot, or parcel if the Zoning Administrator determines that the building, structure, lot or parcel as proposed to be constructed, reconstructed, altered, used, or moved, would be in violation of any of the provisions of this Ordinance. Exceptions to this requirement exist when the Zoning Administrator is directed to issue such permit by the Town's Board of Adjustment ("the Board") after interpretation of this Ordinance or the granting of a variance.

## SECTION 1.6 LIABILITY:

- A. This Ordinance shall not be construed to relieve from liability or lessen the responsibility of any person owning, operating or controlling any building or parcel of land for any damages to persons or property caused by defects or other conditions on, or arising from, said building or parcel of land, nor does the Town assume any such liability by virtue of the reviews or permits issued under this Ordinance.

## SECTION 1.7 VIOLATIONS and PENALTIES:

- A. Any person who violates any provision of this Ordinance, and any amendments thereto, shall be responsible for a Civil Code infraction, punishable as provided in the Cave Creek Town Code. Each day of continued violation shall be a separate offense, punishable as described.
- B. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or land, or cause or permit the same to be done in violation of this Ordinance.
- C. It shall be unlawful for any person to violate any provision designated as a Condition of Approval either by the Site Plan review process or through an amendment, Special Use, Variance, or appeal by a board, commission, or the Council.

- D. When any building or parcel of land regulated by this Ordinance is being used contrary to this Ordinance, the Zoning Administrator shall order such use discontinued and the structure, parcel of land, or portion thereof vacated by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Zoning Administrator after receipt of such notice.

## SECTION 1.8 SEVERABILITY:

- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance 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.

## SECTION 1.9 TECHNICAL DESIGN GUIDELINES:

The following Technical Design Guidelines are hereby adopted by reference:

- 1. TOCC Technical Design Guideline No. 1 – Grading and Drainage.
- 2. TOCC Technical Design Guideline No. 2 – Transportation.
- 3. TOCC Technical Design Guideline No. 3 – Utilities.
- 4. TOCC Technical Design Guideline No. 4 – Landscaping.
- 5. TOCC Technical Design Guideline No. 5 – Trails.