

CHAPTER 2 - ADMINISTRATION

SEC. 2.0 TOWN COUNCIL. Pursuant to Arizona Revised Statutes (“A.R.S.”) and this Ordinance, the powers and duties of the Mayor and Town Council (“Council”) shall include but not be limited to the following:

- A. To hear, review, approve, approve with conditions, or deny zoning applications, use permits, site plans and applications for development, including subdivisions, after recommendation by the Planning Commission in accordance with the provisions of this Ordinance.
- B. To hear, review and adopt amendments to the Zoning District Map after recommendation by the Planning Commission in accordance with the provisions of this Ordinance.
- C. To hear, review and adopt amendments to the text of this Ordinance after recommendation by the Planning Commission, in accordance with the provisions of this Ordinance.
- D. To initiate, adopt, and amend the General Plan, including the text, maps and exhibits, and all elements of the General Plan, after recommendation by the Planning Commission in accordance with the provisions of this Ordinance.
- E. To take such action not expressly delegated exclusively to the Zoning Administrator, the Planning Commission, or the Board of Adjustment as the Council may deem desirable and necessary to implement the provisions of this Ordinance and the General Plan.

SEC. 2.1 PLANNING COMMISSION.

- A. **Establishment.** There is hereby established, pursuant to Arizona Revised Statutes, a Planning Commission (“Commission”), to be known as the Town of Cave Creek Planning Commission.
- B. **Powers.** The Commission is the planning agency for the Town and has the powers necessary to enable it to fulfill its planning function, in accordance with the Arizona Revised Statutes and this Ordinance. The Commission shall advise the Council regarding applications for amendments to the General Plan, Area Specific Plans and this Ordinance, and for development, including subdivisions. In no event is the Commission authorized to render a final decision approving, denying, or conditionally approving a change in this Ordinance or the General Plan, or to make a final decision on an application for development.

- C. **Duties.** In addition to any authority otherwise imposed by law, the Commission shall have the following powers and duties, to be exercised in accordance with the terms of this Ordinance:
1. To hold public hearings when necessary or when required by law.
 2. To initiate, hear, review, and make recommendations to the Council regarding applications for amendments to the General Plan or Area Specific Plans. On an annual basis make recommendation(s) to the Mayor and Council concerning the General Plan as well as plans for the development of any land outside the Town's border, which in the opinion of the Commission, is substantially related to the planning of the Town.
 3. To make recommendations to the Council on all matters concerning or relating to the creation of Zoning Ordinances, the boundaries thereof, the appropriate regulations to be enforced therein, and amendments of this Ordinance and Zoning District Map and to undertake any other activities usually associated therewith and commonly known as "planning and zoning".
 4. To hear, review and make recommendations to the Council on all applications for development, including subdivisions, site plans, specific plans, use permits, and any other permit or review process as provided in this Ordinance or the Subdivision Ordinance.
 5. To confer and advise with other town, county, regional, or state planning agencies and commissions.
- D. **Membership.** The Commission shall consist of seven (7) members, all of whom shall be residents of the Town. The members of the Commission shall be appointed by, and serve at the pleasure of, the Council. The members of the Commission shall serve without compensation.
- E. **Term of Office.** The term of office of the members of the Commission shall be three (3) years, with the terms of members so staggered that the terms of no more than three (3) members shall expire in any one-year. In the event of the death, resignation, or removal of a member of the Commission, the Council shall appoint a resident to fill the vacancy for the un-expired term.

F. **Organization.**

1. **Officers.** The Commission shall elect a chairperson and vice-chairperson from among its own members at its first meeting in January each year. The chairperson shall preside at all meetings. The vice-chairperson shall perform the duties of the chairperson in the latter's absence or disability. The Clerk of the Commission shall be a member of the Town staff appointed by the Town Manager, and is not a voting member of the Commission.
2. **Meetings.** Meetings of the Commission shall be open to the public. Public input shall be permitted on all matters before the Commission. The minutes of the proceedings, showing the vote of each member and records of its examinations and other official actions, shall be kept and filed in the office of the Town Clerk as a public record.
3. **Quorum.** Four (4) members of the Commission shall constitute a quorum for the transaction of business. No matter may be considered by the Commission unless there are four (4) or more members present who are eligible/qualified to vote on the matter. The affirmative vote of at least a majority of the quorum present and voting shall be required to pass a motion. If a member has been present for the entire presentation of an issue that member may abstain from voting only if the member has a conflict of interest. If a member has a conflict of interest he/she shall declare said conflict of interest prior to the presentation and shall abstain from all discussion and deliberation on the matter in question.
4. **Rules and Regulations.** The Commission may make and publish by-laws to govern its proceedings and to provide for its meetings subject to review by the Town Attorney and approval by the Council.

SEC. 2.2 BOARD of ADJUSTMENT.

- A. **Establishment.** There is hereby established a Board of Adjustment ("Board") to be known as the Cave Creek Board of Adjustment.
- B. **Duties.** In addition to any authority otherwise granted to the Board by Arizona Revised Statutes, the Board shall have the following powers and duties:

1. To hear and decide appeals in which it is alleged that there is an error in an order, requirement or decision made by the Zoning Administrator in the enforcement of this Ordinance. The Board may reverse, affirm, or modify, wholly or partly, any order, requirement or decision of the Zoning Administrator properly appealed to the Board, and make such order, requirement, decision or determination as is necessary.
 2. To hear and decide appeals for variances from the terms of this 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 the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that: (a) 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; (b) the granting of the adjustment will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, or to the neighborhood or the public welfare.
 3. Pursuant to A.R.S. §9-462.06, The Board 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.
 - b. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner
- C. **Membership**. The Board shall consist of five (5) members who shall be residents of the Town of Cave Creek. The members of the Board shall be appointed by, and serve at the pleasure of the Council. The members of the Board shall serve without compensation.
- D. **Term of Office**. The term of office of the members of the Board shall be three (3) years, with the terms of members so staggered that the terms of no more than two (2) members shall expire in any one-year. In the event of the death, resignation, or removal of a Board member, the Council shall appoint a Town resident to fill the vacancy for the unexpired term.

E. **Organization of Board of Adjustment.**

1. **Officers.** The Board shall elect a chairperson and a vice-chairperson from among its own members at its first meeting held in each calendar year. The chairperson shall preside at all meetings, administer oaths and take evidence. The vice-chairperson shall perform the duties of the chairperson in the latter's absence or disability. The Clerk of the Board shall be a member of the Town staff appointed by the Town Manager, and is not a voting member of the Board.
2. **Meetings.** Meetings of the Board of Adjustment will be called as needed by the Chair. Meetings of the Board shall be open to the public and public input shall be taken at the discretion of the chairman. The minutes of the proceedings, showing the votes of each member and records of it examinations and other official actions, shall be kept and filed in the office of the Town Clerk as a public record.
3. **Quorum.** Three (3) members of the Board shall constitute a quorum for the transaction of business. No matter may be considered by the Board unless there are three (3) or more members present who are eligible/qualified to vote on the matter. The affirmative vote of at least the majority of the quorum present and voting shall be required to pass a motion. If a member has been present for the entire presentation of an issue, that member may abstain from voting only if the member has a conflict of interest. If a member has a conflict of interest he/she shall declare said conflict of interest prior to the presentation and shall abstain from all discussion and deliberation on the matter in question.
4. **Rules and Regulations.** The Board shall adopt and publish rules and procedures necessary for the conduct of its business, subject to review by the Town Attorney and approval by the Town Council.

- F. **Stay of Proceedings.** An appeal to the Board of Adjustment stays all proceedings in the matter appealed from, unless the Zoning Administrator certifies to the Board that, in the Zoning Administrator's opinion, based on the facts stated, a stay would cause imminent peril to life or property. Upon such certification, proceedings shall not be stayed except by an order granted by the Board or by a court of record on application and notice to the Zoning Administrator. Proceedings shall not be stayed if the appeal requests relief, which has previously been denied by the Board except pursuant to a special action in Superior Court as provided for in state law.

SEC. 2.3 ZONING ADMINISTRATOR.

- A. **Establishment**. Pursuant to Arizona Revised Statutes, the staff position of Zoning Administrator is hereby established for the general and specific administration of this Ordinance. The Planning Director shall serve as the Zoning Administrator. During any period that the position of Zoning Administrator is vacant, the Town Manager or his/her designated representative shall perform the duties of the Zoning Administrator.
- B. **Powers**. The Zoning Administrator, acting under the direction of the Town Manager, shall have all of the powers of a Zoning Administrator under Arizona law and this Ordinance.
- C. **Duties of the Zoning Administrator**. The Zoning Administrator shall have the following duties:
1. To establish rules, procedures and forms to provide for processing of applications or requests for action under the provisions of this Ordinance.
 2. To perform all administrative actions required by this Ordinance, including the giving of notice, scheduling of hearings, preparation of reports, receiving and processing appeals, the acceptance and accounting of fees, and the rejection or approval of site plans as provided by this Ordinance.
 3. To provide advice and recommendations to the Commission, the Board, and the Council with respect to applications and requests for approvals and permits required by this Ordinance.
 4. To assure that any development or use proceed only in accordance with the terms, conditions, or requirements imposed by the Town's Board(s), Commission or Council.
 5. To direct such inspections, observations and analysis of any and all erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the Town as is necessary to fulfill the purposes and procedures set forth in this Ordinance. No building shall be occupied until such time as the Zoning Administrator has issued a letter of compliance with this Ordinance.

6. To take such action as is necessary for the enforcement of this Ordinance including but not limited to the stipulations or conditions of zoning map amendments, conditional use permits, special event permits, abandonments, variances, lot splits and subdivisions.
7. To interpret the Zoning Ordinance to the public, Town departments, and other branches of government, subject to the supervision of the Town Manager and general or specific policies established by the Council.
8. To undertake preliminary discussions with, and provide non-legal advice to, applicants requesting zoning adjustment action.
9. To determine the location of any district boundary shown on the Zoning Map adopted as part of this Ordinance when such location is in dispute.
10. To accept, review, and approve or deny Temporary Use Permits in accordance with the terms of this Ordinance.
11. The Zoning Administrator may, due to the complexity of any matter, unless otherwise noted herein, refer a permit application to the Commission for recommendation.

D. **Limitation on Power of the Zoning Administrator.**

1. The Zoning Administrator may not 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.

E. **Appeals.**

1. Any person aggrieved or affected by a decision of the Zoning Administrator may appeal to the Board of Adjustment, by filing a written request with the Zoning Administrator. Upon receiving a written appeal, the Zoning Administrator shall transmit to the Board of Adjustment all records related to the appeal.
2. An appeal under this section must be filed within ten (10) working days from the date the Zoning Administrator has notified the applicant, in writing, via certified mail return receipt requested of his/her decision. If no appeal is filed within the time specified the decision of the Zoning Administrator shall be final.

- F. **Submittal Requirements.** All requests for action by the Commission, or Board, shall be filed with the Zoning Administrator. All requests shall be in a form required by the Zoning Administrator and in a manner provided in this Ordinance or in rules or regulations approved by resolution of the Council.