

## CHAPTER 10 - SPECIAL USES

### SEC. 10.1 GENERAL

- A. Special Uses are those uses which are generally compatible with the land uses permitted by right in a zone, but which require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zone.
- B. Only those uses that are listed as Special Uses in a zone, as set forth in this Ordinance, shall be allowed. A Special Use shall not be established until the associated Special Use Permit and Site Plan have been approved in accordance with the provisions of this Chapter.
- C. An approved Special Use Permit shall run with the land unless the Town Council elects to specify a time period after which the Special Use Permit shall be voided.
- D. Special Use Permit approval may specify that special conditions or proposed land uses require one or more of the following:
  - 1. Additional Building Setbacks
  - 2. Additional Landscaping
  - 3. Additional On-Site Parking or Loading Spaces
  - 4. Height and Area Limitations of Structures
  - 5. Limited Vehicular Access, Volume or Character of the Potential Traffic.
  - 6. Walls, Fences and Screening Devices
  - 7. Noise Attenuation Construction
  - 8. Off-Site Improvements in public rights-of-way
  - 9. Any other restriction necessary to protect and preserve adjacent properties

### SEC. 10.2 APPLICATIONS

- A. All Special Use Permit applications shall be accompanied by a Site Plan and a Project Narrative indicating how the proposed Special Use would meet the Special Use Permit review criteria.

- B. All Special Use Permit applications shall comply with the submittal requirements as set forth in this Ordinance and those on the application form.
- C. All Special Use Permit applications shall be processed in accordance with this Ordinance.
- D. Prior to the approval, amending or denial of a Special Use Permit, a public hearing shall be held by the Planning Commission. The Planning Commission's recommendations shall be forwarded to the Town Council for affirmation, amendment or reversal.

**SEC. 10.3 REVIEW CRITERIA**

- A. The Town Council has the authority to impose conditions and safeguards necessary to protect and enhance the health, safety and welfare of the surrounding area. The authorization of a Special Use Permit shall be permitted only after review and recommendation by the Planning Commission and review and approval by the Town Council and only if the applicant demonstrates:
  - 1. That the location, size, design and operational characteristics of the proposed Special Use shall not be detrimental to the health, welfare, and safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property.
  - 2. That the associated Site Plan, Circulation Plan and Schematic Architectural Designs shall be harmonious with the character of the surrounding area relative to scale, height, landscaping, screening, lot coverage and density.
  - 3. That the proposed Special Use shall minimize negative impacts on existing uses in the area and in the Town. These impacts include, but are not limited to, the creation of noise, glare, fumes, dust, smoke, vibration, fire hazard or other injurious or noxious impacts. The applicant shall provide adequate mitigation solutions to the above-identified impacts.
  - 4. That the proposed Special Use shall minimize negative impacts on existing uses in the area and in the Town. These

impacts include, but are not limited to, the impacts on public infrastructure such as roads, parking facilities, water and sewer systems, and on public services such as police and fire protection and the ability of existing infrastructure and service agencies to provide necessary services adequately.

5. That the proposed Special Use will be in conformance with the Town of Cave Creek General Plan, Zoning Ordinance and any other statutes, ordinances, codes or policies that may be applicable, and that the Special Use will support rather than interfere with the uses permitted outright in the zone in which it is located.
6. That the proposed Special Use may be required to have additional land area, in excess of the minimum lot area otherwise required by the underlying zone, as necessary to ensure adequate mitigation of impacts on surrounding land uses and the zoning district.

#### **SEC. 10.4 AMENDMENTS AND EXPIRATION**

- A. Approval by the Town Council shall become effective immediately.
- B. The Special Use Permit shall become null and void within twelve (12) months from the date of approval (or other time period if specified as a condition at the time of approval) if not exercised. A Special Use Permit is exercised when the use has been established or when a building permit has been issued and construction completed. Notice that the Special Use Permit may expire within twelve (12) months shall be considered satisfied by the conveyance of the associated Notice of Decision to the applicant.
- C. If the Special Use is abandoned or discontinued for a period of twelve (12) consecutive months, it may not be re-established unless a Special Use Permit is recommended by the Planning and Zoning Commission and approval by the Town Council.

- D. The granting of a Special Use Permit does not exempt the applicant from compliance with all other relevant provisions of related ordinances and codes. The failure to observe these regulations, or the associated Conditions of Approval of the Special Use Permit, constitutes grounds for the Town Council to revoke the Special Use Permit. Such revocation shall not occur without written notice to the property owner, at least thirty (30) calendar day's prior, advising the property owner of the revocation consideration and providing an opportunity for the owner to appear before the Town Council.–
- E. Amendments to Special Use Permits shall be processed in the same manner as the original permit, except that the Zoning Administrator may authorize minor amendments.
- F. Time limits may be imposed for the start of construction, the duration of the Special Use Permit, and additional review and action by the Planning Commission and Town Council.
- G. No application for a Special Use Permit, which has been denied wholly or in part, shall be resubmitted for a period of twelve (12) months from the date of the denial. An exception to this requirement shall be made if three-fourths (3/4) of the members of the Town Council vote to accept the Special Use Permit resubmittal.