

RESOLUTION 22-___

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF COCHISE COUNTY, ARIZONA,
ESTABLISHING THE BOARD OF ADJUSTMENT OF COCHISE COUNTY**

WHEREAS, Arizona Revised Statutes (“A.R.S.”) §§ 11-816, et seq. gives the Cochise County Board of Supervisors (the “Board”) the authority to create one Board of Adjustment that has jurisdiction countywide and that is composed of one member who is a resident of each supervisorial district; and

WHEREAS, in order that the functions, duties, and responsibilities of the Board of Adjustment may be conducted in an orderly and consistent fashion with full public knowledge of the procedures involved, the Board has the authority to establish By-Laws and Rules of Procedure for the Board of Adjustment; and

WHEREAS, on May 24, 2022, the Board of Supervisors held a duly noticed work session on replacing the three Boards of Adjustment, one for each supervisorial district, and establishing one Board of Adjustment; and

WHEREAS, on July 26, 2022, the Board of Supervisors held a duly noticed public hearing of the proposed establishment of a Board of Adjustment and By-Laws and Rules of Procedure attached hereto as “Exhibit A” and found them to be in the public interest.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Cochise County, Arizona that one Board of Adjustment with jurisdiction countywide and is composed of one member who is a resident of each supervisorial district shall be established and adopted By-Laws and Rules of Procedure as contained in “Exhibit A,” attached hereto.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Cochise County, Arizona replace Resolution 74-28, December 18, 1974.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this 26th day of July 2022.

Ann English, Chair
Cochise County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Timothy Mattix
Clerk of the Board

Paul Correa

Paul Correa, Esq.
Civil Deputy County Attorney



BOARD OF ADJUSTMENT

BY- LAWS AND RULES OF

ARTICLE I - PREAMBLE

The Board of Adjustment for Cochise County, Arizona, was created by the Cochise County Board of Supervisors, by authority of the Cochise County Board of Supervisors, by Resolution 22-___, 2022 (Replacing Resolution 74-28, December 18, 1974).

The function of the Board of Adjustment shall be to perform those duties specified in the Cochise County Zoning Regulations. The Board of Supervisors shall adopt the By-Laws and Rules of Procedure, which shall be filed with the Clerk of the Board of Supervisors. The purpose of these by-laws and rules of procedures shall be to implement the Cochise County Zoning Regulations and shall at all times be interpreted as carrying out the responsibilities outlined in said regulations. In order that the functions, duties, and responsibilities of the Board of Adjustment may be conducted in an orderly and consistent fashion with full public knowledge of the procedures involved, the following by-laws and rules of procedure are adopted:

ARTICLE II - BOARD COMPOSITION

1. The Board of Adjustment shall consist of three (3) members appointed by the County Board of Supervisors composed of one member who is a resident of each supervisorial district.
 2. Members shall serve without compensation except for reasonable travel expenses.
 3. No member of the Board of Adjustment shall be a Planning & Zoning Commission member.
 4. The members of the Board of Adjustment shall be appointed to four-year terms.
 5. The Board of Supervisors may remove any member of the Board of Adjustment for neglect of duty, inefficiency, or misconduct in office, after a 10-calendar-day written notice and public hearing thereon. A written statement for a reason for removal shall be filed with the Clerk of the Board of Supervisors.
 6. If a member moves from the supervisorial district from which he is appointed, his office shall, at once, become vacant.
 7. Vacancies shall be filled for the unexpired term of any member whose office has become vacant.
 8. The officers of the Board of Adjustment shall be:
 - A. Chairman: The Chairman shall preside at all meetings and public hearings of the Board of Adjustment, appoint all committees, have general supervision of the conduct of the affairs of the Board of Adjustment, administrator oaths, and perform such other duties as are usually exercised by the Chairman of a Board of Adjustment.
 - B. Vice-Chairman: In the absence of the Chairman, the Vice Chairman shall perform the duties of the Chairman.
 - a. The officers of the Board of Adjustment shall be elected each year from among the members for a one-year term at the annual meeting.
 - b. An Office of the Board of Adjustment, which becomes vacant, shall be filled for the unexpired term by election by the Board of Adjustment from its membership.
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BOARD OF ADJUSTMENT, DISTRICT ONE

BY- LAWS AND RULES OF

- C. The Executive Secretary: The Executive Secretary shall be the County Zoning Inspector, or the Inspector's designee. They shall keep a written record of all business transacted by the Board of Adjustment, notify members of all meetings, keep on file all official records of the Board of Adjustment, and be responsible for serving legal notice of all public hearings.

ARTICLE III - MEETINGS

1. Annual Meeting: The annual meeting for the installation of new members and election of officers shall be held at the first regular meeting of the new year.
 2. Regular Meetings: The Board of Adjustment shall hold at least one regular meeting each month if there is a need and at a time and place as outlined in the meeting notice. There may be additional meetings, as the Chairman or a majority of the members, deem necessary for the transaction of business.
 3. Special Meeting: Special meetings of the Board of Adjustment may be held at the call of the Chairman or at the request in writing of any two (2) or more members, who shall all sign the notice, which shall then be considered a legal notice of said special meeting. All members shall be notified at least 48 hours in advance of the time set for a special meeting.
 4. Meeting Open to Public: All meetings and hearings of the Board of Adjustment shall be open public meetings pursuant to the requirements and procedures of the Arizona Revised Statutes, and all official votes or actions must be in a session open to the public. The Board may convene executive sessions by affirmative vote of the majority of members pursuant to the requirements and procedures of the Arizona Revised Statutes. (A.R.S. 38-431.03, Purposes for Executive Session paragraphs 3 and 4 as enacted or as hereafter amended).
 5. Notices: Notices of all meetings shall be furnished to each member at the same time the required public notification is sent to the news media for publication. Docket packets shall be furnished to each member at least 48 hours in advance of any meeting to permit perusal and evaluation of the cases to be adjudicated.
 6. Quorum: A majority, two or more, of the members of the Board of Adjustment shall constitute a quorum for the transaction of any business or official action.
 7. Minutes and Records: The Board of Adjustment shall keep minutes and records of all its resolutions, transactions, findings, and determinations, and if the vote is not unanimous, the vote of each member present shall be recorded with each order or resolution. All votes taken by the Board of Adjustment shall be by roll call, and the Chairman shall be the last to vote. The minutes, resolutions, transactions, findings, and determinations shall be of public record, all of which shall be filed and maintained by the Executive Secretary.
 8. Decisions: After a matter has been officially considered and the Board of Adjustment has reached a decision, the Board of Adjustment shall not reconsider that decision until the matter has been entered upon the agenda for and heard at a subsequent regular meeting of the Board of Adjustment.
 9. Rules of Order: The New Robert's Rules of Order by Mary A. Devries (revised edition 1990) and these by-laws and rules of procedure shall govern the proceedings of all meetings, subject to interpretation by the County Attorney. The New Robert's Rules of Order will govern the procedure only to the extent, not in conflict with these by-laws and rules of procedure.
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BOARD OF ADJUSTMENT BY- LAWS AND RULES OF

10. Lack of Quorum: If a meeting is not held due to lack of a quorum, all matters scheduled for a public hearing and/or action shall be automatically continued to the next regularly scheduled meeting unless a special meeting date is arranged. Notice of such cancellation and continuation will be provided by staff or any Board member at the meeting place, identifying the time and place for the rescheduled public hearing. In such instances, the matter shall not be required to be re-published, nor shall additional notification be required to be mailed to neighboring property owners.

ARTICLE IV - ORDER OF BUSINESS

1. Call to Order by Chairman or Vice-Chairman
2. Roll Call
3. Determination of Quorum
4. Approval of Minutes or Executive Summary of Preceding Meeting
5. Unfinished Business
6. New Business
7. Adjournment

ARTICLE V - PRESENTATION OF MATTERS

1. Documentation Required: Every matter on which the Board of Adjustment is authorized or required to act, brought before it by any person, official, organization, or agency, shall be presented in writing or on forms provided for the purpose and shall include all information necessary for a clear understanding and intelligent action by the Board of Adjustment. Such information may include maps, surveys, drawings, plans, charts, and other descriptive data.
 2. The Board of Adjustment may call upon any Cochise County officer, department, or agency for assistance in performing its duties. It shall be their duty to render such assistance as reasonably required.
 3. Filing: All matters requiring legal advertisement before the Board of Adjustment should generally be filed with the Zoning Inspector Director at least 45 days before the Board of Adjustment meeting. The Board of Adjustment may reject any application that it considers improper or incomplete.
 4. Docket and Agenda: Each matter or presentation shall be numbered serially under the proper heading and placed upon the agenda or withdrawn by the applicant or agent. All matters docketed shall be set for hearing in the order in which they are docketed. All matters docketed at least 45 days before a meeting of the Board of Adjustment shall appear on the agenda unless other regulations or emergency requirements necessitate a greater or shorter length of time between the filing date and the date it is placed upon the agenda.
 5. Publications of Notice: On matters requiring publication of a notice, such matters shall be scheduled for the next regular meeting in accordance with the notice of the hearing following publication.
 6. Posting of Agenda: The agenda of dockets to be heard shall be forwarded for posting in the physical location required for posting other legal notices for the Board of Supervisors not less than five (5) days before each regular or special meeting.
 7. Record of Official Actions: The Secretary shall indicate on all documents presented for action by the Board the official action taken and permanently file all such documents. All such records shall be open to public inspection during regular office hours.
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BOARD OF ADJUSTMENT, DISTRICT ONE

BY- LAWS AND RULES OF

8. Disposition of Agenda: Only those dockets set for hearing at a given meeting will be heard, and they shall be heard in the order in which they appear on the agenda for that day. When a matter is set for hearing on a given day and so advertised, the matter will be heard and disposed of on the record before the Board of Adjustment, whether or not anyone in favor of or opposition to the matter appears at the hearing.
9. Order of Proceeding: Each matter shall be heard in the following order:
 - a. The Chairman shall call the docket number and read the notice of hearing.
 - b. The Zoning Inspector or the Inspector's designee will summarize relevant correspondence and explain maps or other pertinent data. The Inspector or designee will provide the Board of Adjustment with written recommendations.
 - c. The applicant or the applicant's representative may make a statement in support of the application.
 - d. Other persons in favor of the application may be heard.
 - e. Those opposed to the application may be heard.
 - f. The applicant may be heard in rebuttal.
10. Consent from the Chair: All questions must be addressed to the Chair to prevent general discussion between those in favor of the application and those opposed to it. No person shall speak more than once on any matter without the Chair's consent.
11. Withdrawal of Application: The applicant may withdraw any matter brought before the Board of Adjustment at any time before the Board of Adjustment has rendered a decision.

ARTICLE VI - AMENDMENT OF BY-LAWS AND RULES OF PROCEDURES

The foregoing by-laws and rules of procedure, or any part thereof, may be amended at any meeting of the Board of Adjustment after not less than two (2) days' notice has been given to all members of the Board of Adjustment and a copy of the proposed amendment sent with the notice. It shall require the affirmative vote of not less than two (2) members to make any amendment or change in these by-laws and rules and procedures.

ARTICLE VII - RECORDATION OF RULES AND AMENDMENTS

A certified copy of these rules and amendments thereto shall be placed on record in the office of the Clerk of the Board of Supervisors within five (5) days following the date of adoption.
