



# CITY OF KINGMAN VARIANCE PROCEDURES



## PROCESSING RESPONSIBILITY

1. In order to initiate a variance within the City of Kingman, the following items shall be submitted to the City Planning and Zoning Division:
  - ✓ \$1,000.00 processing fee - (non-refundable)
  - ✓ Completed variance application
  - ✓ Proposition 207 waiver form. An applicant is not required to complete this form.
  - ✓ One (1) clean, reproducible 8 1/2" x 11" site plan of the subject property. Other items such as building elevations or plans may be necessary on an individual case basis. (No larger than 18" x 24"). In addition, submit one electronic copy of the site plan.
  - ✓ A letter of explanation and rationale for the variance request. This should be keyed to the statutory and ordinance requirements for a variance.
  - ✓ A list of property owners within one-hundred-fifty (150) feet of the variance. (List is obtained from the Mohave County Assessor's Office, 700 W. Beale Street - Kingman, AZ 86401, phone #: 928-753-0703).
2. Upon receipt of the above required materials, the City Planning and Zoning Division shall initiate the processing of the variance in the following manner:
  - a. Forward a copy of the request to the City Engineer, City Attorney, City Public Works, City Fire and all utility companies providing service to the Kingman area.
  - b. Forward a letter outlining the request to all property owners within on-hundred-fifty (150) feet of the proposed variance.
  - c. Schedule a public hearing before the City Board of Adjustment for evaluation of the proposed variance.
  - d. Post the area for the proposed variance in no less than two (2) places. Notice shall be published in the Kingman Daily Miner fifteen (15) days prior to the Board of Adjustment hearing date.
  - e. Present to the City Board of Adjustment a comprehensive report, outlining all comments received from the reviewing agencies. A copy will be mailed to the applicant.

# **CITY OF KINGMAN ZONING CODE SECTION 28.000**

## **BOARD OF ADJUSTMENT**

There is hereby created within and for the City of Kingman, Arizona, a board of Adjustment with the powers and duties as hereinafter set forth and subject to the Arizona Revised Statutes.

### **MEMBERSHIP**

The Board of Zoning Adjustment shall be composed of seven (7) members, citizens of the City of Kingman, Arizona, each appointed by the Mayor, subject to confirmation by the City Council, for a term of three (3) years. The terms of the members shall be staggered as follows: For the first three years of the existence of the Board, one appointment will be for a period of one year; the second and third appointments shall be for a period of three years. At the expiration of each term thereafter, each term will run three years, with one member's term ending, and a new appointment being necessary on each of the successive years.

The Mayor shall have the power to fill vacancies in the Board at any time, and the appointment to fill a vacancy will run only for the unexpired time in the term of the member who caused the vacancy.

The members of the Board shall serve without compensation, and shall be subject to removal for cause by the Mayor. The Board will appoint their own chairman each year. Said chairman shall be a person who has the power to administer oaths and take evidence.

### **PROCEDURE**

The Board shall adopt rules in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the chairman, and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths, take evidence and compel the attendance of the witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be public record.

### **APPEALS TO THE BOARD**

Appeals to the Board of Adjustment may be taken by persons aggrieved or by any officer, department, board or bureau of Kingman affected by a decision of any administrative official, within a reasonable time, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in the matter appealed from, unless the zoning administrator certified to the Board of Adjustment that, in his opinion by the facts stated in the certificate, a stay would cause imminent peril to life or property. Upon such certification proceedings shall not be stayed, except by restraining order granted by the Board or by a court of record on application and notice to the zoning administrator. The Board shall fix a period within 45 days for hearing the appeal, and shall give notice of hearing by both publication in a newspaper of general circulation in accordance with A.R.S. Section 9-462.04 and by posting the notice in conspicuous places close to the property affected.

## **TYPES OF APPEALS**

The Board shall:

1. Hear and decide when there is error in an order, requirement or decision made by an administrative official in the enforcement of an ordinance adopted pursuant to this article (INTERPRETATION).
2. Hear and decide special exceptions to the terms of the Ordinance upon which the Board is required to pass under such Ordinance (SPECIAL EXCEPTION).
3. Hear and decide appeals for variances from the terms of the zoning 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 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.
4. Reverse or affirm, wholly or partly, or modify the order or decision appealed from and make such order or decision as ought to be made, and to that end shall have the powers of the officer from whom the appeal is taken.
5. A 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 restriction 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 per A.R.S. §9-462.06.

## **REFUSAL REQUIRED**

No appeal shall be taken to the Board until and unless the Zoning Administrator has first reviewed an application for building permit and has refused to issue a permit according to plan submitted, or has rendered an interpretation of the zoning ordinance.

## **APPLICATION REQUIRED**

Every appeal shall be filed in duplicate on forms provided by the City, and shall be complete in all respects before being accepted for filing. The appeal shall bear the signature of the owner of the property affected or shall be accompanied by a letter from the owner acknowledging the taking of the appeal.

## **PUBLIC HEARING**

The Board shall, within thirty days of said notice, hold a public meeting concerning the matter. The chairman shall give written notice to all persons interested in the time and place of the hearing by mailing to their last known address. There shall also be published in a newspaper of general circulation within the County a notice to the public of the time and place of said hearing.

At the time of the hearing, all interested parties shall be heard and any discussion shall be had. The minutes of said hearing shall be taken, and copies thereof shall be available to the public in the office of the clerk.

The concurring vote of a majority of the Board shall be necessary to reverse an order or decision of an administrative official, or to decide in favor of the applicant, or any matter upon which it is required to pass under such ordinance, or to effect any variation in the ordinance.

Upon a concurrence of a majority of the members of the board, the Board shall rule whether said building, structure or use is included or excluded from said district regulation, or whether a variance therefore shall be allowed.

The rulings of the Board shall be written, and shall be verified by the chairman of said Board and be attached to the copies of the minutes of the hearing. Copies of both the minutes and the ruling shall be mailed to all interested parties. The rulings and the minutes shall be available to the public in the office of the Clerk, said rulings and minutes being indexed according to the district and date.

## **APPEALS TO SUPERIOR COURT**

After the filing of the decision in the office of the Board, a person aggrieved by a decision of the Board, or a taxpayer, or municipal officer may petition the Mohave County Superior Court for a writ of certiorari for review of the Board's decision. Allowance of the writ shall not stay proceedings upon the decision appealed from but the court may, on application, on notice to the Board and for good cause shown, grant a restraining order, and on final hearing may reverse or affirm, wholly, or partly, or may modify the decision reviewed.



# CITY OF KINGMAN VARIANCE APPLICATION FORM CASE # VA- \_\_\_\_\_ - \_\_\_\_\_

Application Date: \_\_\_\_\_

Complete Legal Description of Subject Property:

\_\_\_\_\_

Property Address: \_\_\_\_\_

Requested Action:

\_\_\_\_\_

Zoning District (where proposed property is located): \_\_\_\_\_

Mohave County Tax Parcel Number(s): \_\_\_\_\_ Size of Parcel: \_\_\_\_\_

Property Owner's Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_

**Applicant Name: (OR AGENT/REPRESENTATIVE); IF THE OWNER DOES NOT SIGN THIS APPLICATION, A WRITTEN LETTER OF CONSENT MUST ACCOMPANY THIS APPLICATION.**

\_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_

**ITEMS FROM "PROCESSING RESPONSIBILITY" SHALL BE SUBMITTED WITH THIS APPLICATION.**

**AGREEMENT FOR THE WAIVER OF CLAIMS FOR DIMINUTION IN VALUE OF PROPERTY UNDER  
A.R.S. §12-1134**

This agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between \_\_\_\_\_ (Owner) and the CITY OF KINGMAN, an Arizona Municipal Corporation, (City).

RECITALS

- A. The Owner owns certain real property located within the City or is within the City's service area. This real property is depicted and legally described in the attached Exhibit A, incorporated into this agreement by this reference; and
- B. The Owner has requested that the City enact a certain land use change directly applicable to the Owner's property and agrees that this change will increase the value and use of the land; and
- C. The Owner is aware that, as a condition of receiving approvals under the City's land use laws, the City may impose various requirements, conditions, and stipulations upon the property that will govern development of the property; and
- D. The Owner agrees and consents to all the conditions imposed by the City regarding the land use action in:
  - a. \_\_\_\_\_ Rezoning/Zoning Change
  - b. \_\_\_\_\_ Conditional Use Permit
  - c. \_\_\_\_\_ General Plan Amendment
  - d. \_\_\_\_\_ Variance
  - e. \_\_\_\_\_ Site Plan
  - f. \_\_\_\_\_ Subdivision
  - g. \_\_\_\_\_ Ordinance
  - h. \_\_\_\_\_ Development Agreement
  - i. \_\_\_\_\_ Water/Wastewater Service
  - j. \_\_\_\_\_ other \_\_\_\_\_ (please specify)
- E. By signing this agreement, the Owner acknowledges that Owner waives any right to claim diminution in value or claim for just compensation for diminution in value under A.R.S. §12-1134 related to the land use action as a result of the City's approval of the action in regards to the above referenced property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under A.R.S. §12-1134 as it exists or may be enacted in the future or that may be amended from time to time with regard to the subject property.
- F. This agreement in no way acquiesces to or obligates the City to perform any legislative or administrative act.

- G. This agreement, any exhibits attached hereto, and any addendum, constitute the entire understanding and agreement of the Owner and the City and shall supersede all prior agreements or understandings between the Owner and the City regarding the above referenced property in accordance with A.R.S. §12-1134. This agreement may not be modified or amended except by written agreement by the Owner and the City.
- H. This agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona.
- I. If any legal action is brought by either party to enforce any provisions of this agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and court costs in such amounts as shall be allowed by the court.
- J. Within ten (10) days after the execution of this agreement, the City Clerk shall file the agreement in the Official Records of the Recorder's Office, Mohave County, Arizona.
- K. This agreement runs with the land and is binding upon all present and future owners of the above referenced property.
- L. This agreement is subject to the cancellation provisions of A.R.S. §38-511
- M. The Owner warrants and represents that Owner holds fee title to the above referenced property, and that no other person has ownership interest in the property; and agrees to hold harmless and indemnify the City in any action regarding ownership. Owner is responsible to notify the City if change in ownership of the above listed property takes place prior to approval of the land use action. Any and all Owners must sign this agreement. Additional Owner signatures must be notarized and attached to this agreement.
- N. Any Agent that signs on behalf of the Owner, personally warrants and guarantees to the City that they have the full legal power to bind Owner to this agreement. Furthermore, Agent agrees to indemnify and hold harmless the City in any action regarding ownership of the above listed property. Agent is responsible to notify the City if any change in ownership of the above listed property takes place prior to the full approval of the requested action.

**CITY OF KINGMAN**

**A MUNICIPAL CORPORATION**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**I, the undersigned, hereby agree to the terms and acknowledge this document and sign below.**

**PROPERTY OWNER/AGENT**

By: \_\_\_\_\_

Print Name \_\_\_\_\_

State of Arizona)

)

County of Mohave)

**SUBSCRIBED AND SWORN** to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_

Notary Public