



CITY OF KINGMAN DEVELOPMENT SERVICES

310 North Fourth Street

Phone: 928.753.8130

VARIANCE PROCESS & CHECKLIST

APPLICATION FILING REQUIREMENTS

Only the following persons or entities may apply:

- The owner of the affected property;
- An agent authorized in writing to act on the owner's behalf;
- A person having a written contractual interest in the property.

Applications and supporting materials are public records pursuant to A.R.S. §39-121 through §39-128. Public records may be reviewed and copied upon request during normal business hours, unless protected from disclosure. The applicant shall clearly label each page of copyrighted or trademarked materials (e.g., ©, ®, TM) and such materials will be available for public inspection, but copyrighted materials will not be copied.

APPLICATION SUBMITTAL CHECKLIST

- ☐ One (1) **Application Form** signed by the applicant and property owner. A written letter of consent from the property owner is required if the owner does not sign the application.
- ☐ One (1) **Waiver of Claims for Diminution of Value** in compliance with the A.R.S. §12-1131 through §12-1138 signed by the owner as may be required by the Director.
- ☐ One (1) **Written Narrative/Project Description** for the proposed project which includes the following information:
 - ☐ Proposed use of the property;
 - ☐ Type of variance request (setbacks, building height, sign etc.);
 - ☐ Explanation and rationale for the variance request based on Section 2-70.050 Findings for Granting Variances
- ☐ One (1) **Site Plan** which includes the following information:
 - ☐ North point and scale;
 - ☐ Current zoning of the property;
 - ☐ Area of site in square footage and acres;
 - ☐ Property line locations and dimensions;
 - ☐ Distances in feet of any existing or proposed buildings to property lines;
 - ☐ Location, dimensions, and square footage of all proposed and existing structures on property;
 - ☐ Locations of existing and proposed driveways including those on opposite side of street;
 - ☐ Location of existing and proposed parking areas, including number of parking spaces;
 - ☐ Type and location of any outdoor storage including site obscuring fences or walls;
 - ☐ Location of landscape areas;
 - ☐ Location and height of any walls;
 - ☐ Location of abutting streets and alleys and existing or proposed improvements including curbs and sidewalks;
 - ☐ Location and dimensions of public or private easements;
 - ☐ Type and general location of public utilities;
 - ☐ Storm drainage provisions and any "A" flood zones impacting the property;
 - ☐ Additional supporting materials as may be required by the Director. The Director may also waive the submission of specific materials or information if it is determined to be not needed for reaching a decision on the application.

DETERMINATION OF ADMINISTRATIVE COMPLETENESS

Upon receipt of the application and required fee, the application shall be reviewed in compliance with the time frames for

administrative and substantive review in accordance with Subsection 2-30.020.C of the Kingman Zoning Code. The administrative review time frame for a Variance Application is five (5) working days. The substantive review time for a Variance application is 25 working days.

Upon completion of the administrative review, the applicant will be notified in writing if the application is complete and accepted for processing or incomplete. If the application is incomplete, the Director shall identify the items that are needed to complete the application and return it to the applicant. An application will only be reviewed and the public hearing scheduled when an application is determined to be complete. The applicant will be notified in writing of the date and time of the public hearing. An applicant may appeal a determination of completeness to the Development Services Director (See Section 2-80.030 Appeals of Other Approvals).

Applications not deemed complete within six (6) months after the first filing with the Department, the application shall expire and be deemed withdrawn. Within 30 days prior to that date, the Director shall notify the applicant in writing that the application will become inactive. The Director may grant one (1) six-month extension upon written request of the applicant. After expiration of the application, and extension, if granted, a new application, including applicable fees, plans, exhibits and other materials will be required to commence processing of a new project application on the same property.

After the application has been accepted as complete, the Director and/or any decision-making body may require the applicant to submit additional information in order to evaluate fully whether an application complies with the requirements of this Code, State, or Federal law.

SUBSTANTIVE REVIEW PROCESS

Following a determination of administrative completeness, the application will be referred at the Director's discretion, or as may be required by other law, to any public agency that may be affected by or have an interest in the proposed land use activity. This could include city, county, and state agencies and departments, as well as utility companies.

All departments and agencies will have ten (10) working days from the date of receipt of the information to complete their review and submit their evaluation report to the Director.

The Planning and Zoning staff will prepare a report to the Board of Adjustment. The report will include an analysis of the request, a summary of all comments received from public agencies, surrounding property owners, and the general public, and recommendations on whether the Variance should be granted or denied and the grounds for such recommendation. The staff report will be provided to the applicant no later than five calendar days prior to the public meeting. Staff reports will be made available to the public only after they have been submitted to the Board of Adjustment.

NOTICE OF PUBLIC HEARINGS

Requirements for the Notice of Public Hearings is described in Section 2-30.070 of the Kingman Zoning Code. Public hearings are noticed in the Kingman Miner newspaper in accordance with A.R.S. §9-462.04 at least fifteen (15) calendar days prior to the public hearing of the Board of Adjustment. Surrounding property owners within 300 feet of the outer boundary of the subject property are sent notices by first class mail by the City at least fifteen (15) calendar days prior to the public hearing of the Board of Adjustment. The applicant is required to provide the mailing labels (see Applicant Checklist for further details). The site is also posted with a public notice by the City at least fifteen (15) calendar days before the public hearing of the Board of Adjustment. The applicant is responsible for maintaining the sign in good condition throughout the posting period. The sign is removed by the City no later than ten (10) days after the public hearing of the Board of Adjustment and final action.

BOARD OF ADJUSTMENT REVIEW

A Variance Application is heard at a public meeting of the Board of Adjustment. Meetings are held at the call of the staff or the Chairperson, and at other times as the Board may determine. The Board of Adjustment meets in the Kingman City Council Chambers located at 310 N. Fourth Street in Kingman. The applicant will be notified in writing of the date and time that the public meeting will take place after the application is deemed to be complete.

The applicant, or designated representative, should be present at the public meeting to be available for any questions from the Board of Adjustment. The Chairperson, or in their absence, the acting Chairperson, may administer oaths, take evidence, and compel the attendance of the witness. 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.

FINDINGS FOR GRANTING VARIANCES

In accordance with Section 2-70.050 Findings for Granting Variances, a Variance shall only be granted if the applicant demonstrates the following findings:

- That, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of these regulations will deprive such property of privileges enjoyed by other property of the same classification in the same zone.
- That a grant of a Variance will be subject to conditions to ensure that the adjustment authorized is the minimum variation needed and that it will 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;
- The special circumstances applicable to the property are not self-imposed by any person having an interest in the property; and,
- The Variance will not allow the establishment of a use which:
 - Is not otherwise permitted in the zone;
 - Would result in the extension of a non-conforming use or structure; or
 - Would change the requirements of the zone applicable to any or all the subject property.

BOARD OF ADJUSTMENT DECISION

At the conclusion of the public meeting, the Board shall review the application in light of the standards established in Section 2-70.050 (Findings for Granting Variances), the testimony at the public meeting, and the record. The Board shall then grant the Variance, grant the Variance subject to specified conditions, or deny the Variance.

A Variance may be granted subject to conditions that are necessary to carry out the purpose of this Code and ensure that the Variance authorized meets the required findings in Section 2-70.050 (Findings for Granting Variances). Conditions serving to prevent or minimize adverse effects upon other property in the neighborhood may include limitations on size and location, hours of operation, requirements for landscaping or buffers, lighting, and ingress and egress.

EFFECT OF APPROVAL OR DENIAL OF VARIANCE REQUEST

In accordance with Section 2-70.070 of the Kingman Zoning Code:

- After the Board approves a Variance, the applicant shall follow the requirements of this Code for any additional applicable permits in order to proceed with the development of the subject property.
- Any Variance granted will be void if the use is not commenced or if a Building Permit has not been obtained within one (1) year of the permit being granted or within the time stipulated at the time the Variance was approved. All subsequent orders, decisions, determinations, and interpretations made by the City in compliance with those procedures shall be consistent with the Variance granted to the applicant.
- A request for an extension of an approved Variance will be processed as a new request in compliance with this Division.
- No request for Variance which has been denied by the Board may be resubmitted as substantially the same request for a period of one (1) year from the date of denial.
- If a building or structure is erected on a parcel where a Variance has been approved, and the parcel is the subject of an approved zone change, such structure may become a legal non-conforming structure if following adoption of the approved zone change the structure does not comply with the standards of the new zone.

APPEALS FROM THE BOARD OF ADJUSTMENT

In accordance with Section 2-70.080 of the Kingman Zoning Code, an applicant or any other person aggrieved by the decision of the Board or any taxpayer, officer, or department of the City who is affected by the decision of the Board may appeal that decision directly to the Superior Court by filing a complaint for special action within 30 days after the Board has rendered its decision. Filing the complaint does not automatically stay proceedings on the decision sought to be reviewed,

but the court may grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.